Matt Blunt, Governor . Doyle Childers, Director

## OF NATURAL RESOURCES

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#### **MEMORANDUM**

DATE:

March 22, 2007

TO:

Carol Eighmey, Executive Director

Petroleum Storage Tank Insurance Fund (PSTIF)

FROM:

Ken Koon, Chief Jan The

Tanks Section, Hazardous Waste Program

SUBJECT:

Petroleum Storage Tank Insurance Fund (PSTIF) Actions Directing

Environmental Work at Remediation Sites

Over the past year I have noticed that you, and the PSTIF staff, have directed the environmental work of tank owners and consultants. This includes such things as directing consultants as to when the site is delineated properly, whether or not plume stability has been demonstrated, and the development of cleanup standards (Road Ranger site).

In my previous position with the state, managing the Drycleaning Environmental Response Trust (DERT) Fund, I can understand and appreciate the desire to preserve the fund and ensure that funds be spent in an efficient manner. I know that your actions proceed from the very best intentions for the state.

Nevertheless, these actions create confusion among tank owners and consultants of whom is overseeing tank cleanup work and who makes the environmental and technical decisions on risk assessments and corrective action at tanks sites in Missouri. These tasks are the responsibility of the tank owners and operators and the consultants that they have hired to conduct the work and oversight of these projects is provided by the Department of Natural Resources. These consultants look to this department, rightly so, for guidance in performing this work to satisfy the states environmental standards.

The PSTIF requests are creating an appearance of duplicative authority that puts tank owners and contractors in a bind. Several contractors and consultants have expressed this concern to me.

The PSTIF, or Williams and Company, direction of environmental issues can lead to incorrect delineation criteria and cleanup standards being developed at sites (Example: Road Range Site). Memorandum to Carol Eighmey Page Two

This can lead a tank owner or operator to spend resources and time on a cleanup plan that is flawed in its assumptions. The department must then point out that incorrect standards have been applied and ask for the tank owner or operator to collect additional data or do additional evaluations. These issues could have been avoided if the PSTIF and the tank owner or operator had involved the department's expertise in these matters prior to the work being conducted.

As you are well aware, Section 319.129(12), Revised Statutes of Missouri (RSMo), clearly defines the role and responsibility of the PSTIF, stating "The board shall determine and prescribe all rules and regulations as they relate to fiduciary management of the fund, pursuant to the purposes of Sections 319.100 to 319.137. In no case shall the board have oversight regarding environmental cleanup standards for petroleum storage tanks."

The department believes that directing consultants on delineation criteria, plume stability issues, and development of cleanup standards are a violation of this very clear statute.

Proper recognition of the responsibilities and obligations of our agency and the PSTIF Board is fundamental in the states tank cleanup efforts. Confusion among tank owners and operators and consultants on who is overseeing cleanup projects can be confusing and lead to lengthy delays in the cleanup process. The department will be informing the tanks community of the responsibilities and obligations of each of our agencies to clear up this confusion.

While I am confident that both our agency and the PSTIF Board can work together to ensure that funds spent for cleanups are done so in a cost effective and efficient manner, we must remember that both of our entities must share the primary goal of ensuring that petroleum cleanups are done so that there is adequate protection of human health and the environment. This is especially important as we are assessing the acceptable risk of leaving any petroleum contamination in place under a risk based corrective action approach.

I welcome your thoughts and any clarifications that you may have in this regard and to a positive working relationship regarding tank cleanups in Missouri. The department recognizes that cost-effective cleanups can be done and we are open to any suggestions that save costs and provide for the cleanup and redevelopment of these tank sites. However, these cleanups must be done in a manner that is first protective of human health and the environment.

As always, please feel free to contact me at your convenience to discuss this further.

cc: Doyle Childers, Department of Natural Resources
Kurt Schaefer, Department of Natural Resources
Floyd Gilzow, Department of Natural Resources
Daniel R. Schuette, Department of Natural Resources
Robert Geller, Department of Natural Resources
Robert Clark, Williams and Company

**U.S. Environmental Protection Agency** 

Region 7 October 2013

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#### INTRODUCTION

The purpose of this document is to establish regional guidance for effective, cost-efficient, and consistent procedures for determining when and how to conduct formal reviews of environmental programs subject to Environmental Protection Agency (EPA) oversight in Region 7. It is intended to inform Region 7 programs as to why, when and how program reviews should be conducted, and to inform State Programs of what they can expect from Region 7 when it conducts program reviews. This guidance outlines the general process for determining the need for and conducting program reviews, but not program specific information. There are four major components to this guidance:

- I. Program Review Selection and Coordination A decision matrix for use by all regional program managers to determine when and what type of program review activities to conduct
- II. Roles and Responsibilities A description of roles and responsibilities of program review team, management, and organizations
- III. Conducting A Program Review Establishes generic standards for use region-wide
- IV. Follow-up and Resolution Creates a process for identifying issues that need to be resolved

Region 7 expects that program review practices and approaches will continue to evolve. Increased use of technologies such as review of program files remotely using electronic records systems, video conferencing and other efforts to increase efficiency will be likely drivers of future changes to program review practices.

#### SECTION I: PROGRAM REVIEW SELECTION AND COORDINATION

#### A. Background

This guidance addresses programs for which EPA bears oversight responsibility, but are not implemented exclusively by EPA. These are programs that are generally implemented by state agencies, but also may include tribal or local government entities. For purposes of this document, these agencies will be referred to as "State Programs." These State Programs perform all or portions of the work in conjunction with, on behalf of, or in lieu of EPA; however, EPA still maintains an oversight role. These State Programs are referred to as "delegated" or "authorized." This guidance potentially extends to other types of "non-delegated" arrangements such as: work sharing agreements, pilot programs, continuing environmental grant programs, interim authorization work, joint implementation of programs, and other similar arrangements. EPA maintains responsibility for delegated programs and continues to be accountable for progress toward meeting national environmental goals and for ensuring that federal statutes are fulfilled. Appendix 1 provides more detail on the applicability of this program review guidance to Region 7 programs.

The words "program oversight;" "oversight" and "program review" are used throughout this document. "Oversight" is the more inclusive term, referring to all formal and day-to-day informal activities by which EPA monitors the performance of delegated programs. Examples of EPA's program oversight activities include regular staff communications such as monthly conference calls; review of permits issued by State Programs; and review of environmental monitoring plans. "Program review" refers to the periodic, formal evaluation of State Programs; this includes review of a single aspect of the State

Program or the entire program. A program review is based on a specified period of review and tailored to each State Program.

EPA program review responsibility stems from the existence of at least one of the following criteria:

- > The program is based on federal statute or regulations with or without grant funding.
- A non-federal entity implements a program through formal delegation from EPA.
- > EPA provides a continuing program grant.

These criteria have been applied to each program in Region 7 and the results are organized by division as shown in Appendix 1.

It is up to EPA program managers, in consultation with their state counterparts, to determine whether a program review should be conducted and the type of review to be conducted. Some EPA national program guidance may provide specific expectations for program reviews. These decisions will be documented utilizing the Program Review Criteria Process document found in Appendix 2.

#### B. Development of the Program Review Schedule

Based upon input from each division the Region 7 Program Operations and Integration Staff (POIS) compile an annual program review schedule which outlines anticipated program reviews to be conducted in each state environmental agency during the calendar year. The schedule outlines the program focus area(s), Region 7 point of contact or lead reviewer, and anticipated time frame for review (typically the quarter or month). The development of the schedule begins with each program providing POIS information on anticipated reviews for the upcoming calendar year via a coordinated call for updates from POIS. A final consolidated schedule is shared with the four state environmental agencies early in the calendar year for planning and awareness purposes. Additional and specific information about the program review is communicated to the state by the respective program's management and staff as described in Section III of this guidance.

## SECTION II: ROLES & RESPONSIBILITIES IN PERFORMING PROGRAM REVIEWS

The following outlines the roles and responsibilities of EPA staff and managers in performing program reviews.

#### A. EPA REGIONAL SENIOR MANAGERS/DIVISION DIRECTORS (SENIOR STAFF)

- > Senior Staff ensure that proposed program reviews are appropriate and coordinated across the region in order to minimize resource impacts on regional and state operations.
- > Senior Staff ensure that proposed program reviews are focused upon the areas that would present the most value.
- Division Directors resolve significant or unresolved issues identified during a program review in a timely manner elevated to them by program managers or branch chiefs.

#### B. PROGRAM MANAGERS/BRANCH CHIEFS

- > Ensuring that the "Program Review Decision Criteria" checklist is completed annually.
- > Ensure the program decision criteria is implemented in a thorough and timely manner.
- > Specify areas of emphasis for the program review team (if appropriate).
- > Ensure the program review team has appropriate representation from other parts of the Region 7 organization.
- Elevate any significant or unresolved issues from the program review through the management chain for resolution.

#### C. PROGRAM REVIEW TEAM LEADER/MEMBERS

- > The team leader is responsible for scheduling the review with the state partner; coordinating logistics of the review; editing, compiling, and issuing the final report; and elevating unresolved issues to the program managers for resolution.
- > Team members' roles and responsibilities are typically clarified and assigned during the review team kick-off meeting. Each team member is expected to fulfill the agreed upon role.

#### D. PROGRAM REVIEW SCHEDULE (PLMG/POIS)

> In coordination with program offices, POIS develops an annual program review schedule which outlines anticipated program reviews to be conducted in each state environmental agency.

#### SECTION III: CONDUCTING A PROGRAM REVIEW

#### A. PROGRAM REVIEW BASICS

#### Need, Focus, Depth and Frequency

Consideration must be given to differential oversight and minimum review requirements while following the objective criteria for making program review decisions in Appendix 2. Completing Appendix 2 provides the documentation for each program on whether to conduct program reviews, as well as the type of review.

The EPA will consider differential oversight in the implementation of this guidance. This means that the EPA may focus its limited resources on State Program programs that are experiencing challenges such as major program or organizational change, staff turnover or shortages, etc. and less so on State Programs that are not. This also means that there will be variations in program review focus, depth and frequency based on individual program oversight need. The level of oversight and degree of variation will be left to the discretion of the EPA program office.

#### Type of Review

By applying the series of objective questions found in Appendix 2 with appropriate consultation with the State Program staff, each regional program office, through a structured thought process, will determine the type of program review appropriate. Consistent with good internal management practices, the

process creates a record showing how each regional program reaches its program review decision. Types of review include: Full Review on-site or off-site; Targeted review on-site or off-site; Self-assessments full or targeted; or No review.

#### **Timing**

Program review timing will be discussed and mutually agreed upon in advance of developing and sending the introductory letter (see Part B below) to the State Program.

#### B. OPERATING PRINCIPLES OF REVIEWS

#### Communications with State Programs

In general, communications between Region 7 and states about program reviews, such as introductory letters, draft and final reports, should be done at the senior manager level. However, state and Region 7 senior managers may agree to other arrangements.

#### Review Team Formation

The regional program responsible for the review will designate a team leader and appropriate team members. For programs included in a Performance Partnership Grant, the PPG administrative project officer will be kept advised of the plan and review timeframe. The team leader or members may need to coordinate with and gather information from other managers and/or staff regarding issues to be covered in the program review.

The team leader will be responsible for scheduling the review with the State Program; coordinating logistics; scheduling a pre-review meeting to discuss and coordinate roles and responsibilities of team members; editing and compiling the report; and issuing the report.

All Regional representatives (branches, divisions, programs) associated with the State Program should be present at the initial meeting. In addition, team members will identify any known program issues.

#### Project File Selection

All team members will be responsible for identifying the project file names to examine during the program review and for providing a list to the team leader. The team leader will compile a comprehensive list of project file names selected for review and forward this list along with the introductory letter and draft agenda to the State Program.

The number of projects file names reviewed will be determined on a program-by-program basis. Project information may be located within file management systems, national databases and/or data management systems. The extent of project review coverage is based on EPA needs for effective oversight and may vary with each program review.

#### Introductory Letter

Following the internal pre-meeting and file selection, the team leader will transmit notice of the review dates that have been agreed to by the review team and the State Program. The following information will be considered for inclusion in the introductory letter, as appropriate:

- > the milestone dates which require State Program participation;
- > the intent and known areas of emphasis for the review;

- > a list of staff conducting the program review and their respective responsibilities;
- > a list of the project file names proposed for review;
- > the program review checklist or questions;
- > a request that State Program managers and staff be present as needed for interviews and consultation;
- > a schedule for the entrance conference;
- > statements emphasizing EPA's intent to issue a timely draft report, the importance of the State Program providing a timely response to the draft report, and EPA's intent to issue the final report on schedule; and
- > the time period covered by the review.

This letter shall be received by the State Program at least 30 days prior to the review.

#### Preparation for Program Reviews

Preparation is key to conducting an effective program review. The team may need to coordinate with other staff regarding any issues to be covered in the program review. Team members will review the following documents prior to the on-site review, as appropriate:

- > Program delegation agreement;
- work plan for the year of the review;
- > previous program review report, including follow up items;
- > applicable Standard Operating Procedures (SOPs), Memorandums of Agreement (MOA), and specific program guidance, etc.;
- > program review reports and findings by other organizations, such as the EPA Office of Inspector General or the General Accountability Office;
- > notes from regular coordination calls and meetings with the State Program;
- > reports from national data systems; and
- > any notes team members have made throughout the year as reminders for the program review (team members may find it useful to maintain a file during the year in which notes can be kept regarding ideas for the upcoming review).

The team members will review and update any program checklists as necessary including interview questions prior to the review.

#### **Entrance Conference Procedures**

An important first step when conducting an on-site program review is conducting an entrance conference between EPA and the State Program. The team leader will lead the opening discussion.

The purpose of the entrance conference is to: (1) establish the ground rules for the review, including the logistics of the review and any other review-related process issues; (2) obtain any initial State Program input concerning the program review; and (3) introduce the EPA review team members present at the entrance conference. The team leader will also review the schedule for the program review, including the development of the program review report, as described in the introductory letter. The timeframes for development of the review report will be emphasized along with the timeframes for completion.

#### Project File Review

Team members will follow the State Program's procedures for assessing information pertaining to the listed projects. Team members must also take special care when reviewing any confidential business

information. This material will not be copied. If a team member's review indicates that something is missing from the file, the team will follow up on that issue with the State Program's office.

#### Interviews

Scheduling interviews with the State Program will be done as far in advance as possible in order to ensure that appropriate personnel will be available during the review. This can be done at the time the initial overall schedule is established, or during the entrance conference if necessary.

Topics for interviews with State Program management and staff may involve facts and/or procedural and policy questions. These questions may be prepared in advance or may be impromptu. State Program personnel will be offered the opportunity to raise and discuss problems, needs or concerns.

#### Initial Findings

The team will meet to discuss findings, recommendations, and to provide summary information for the team leader to use during the exit conference. The goal is to have the initial findings of the on-site review to be used at the exit conference. Staff names may be mentioned in the report as sources of information but will not be mentioned in connection with findings or conclusions.

#### Exit Conference

The team members conducting the review will be present at the exit conference to discuss initial findings, recommendations and successes. The exit conference will be held at the end of the on-site review. The objective of the exit conference is to address all identified issues with the States Programs so there are no surprises in the draft report. The review cannot be considered complete if the State Program needs to provide additional information requested by the program review team.

#### Draft Report

The team leader will be responsible for transmitting the final draft report, including a cover letter and executive summary where appropriate, preferably no later than 30 days following the exit conference. This responsibility carries with it the authority to set reasonable deadlines for other team members in order to transmit the report on time. If the draft report is not available within 30 days to send to the State Program, EPA will contact the State Program and provide an update on the projected completion date. Team members should be aware the report is a public document.

The cover letter and executive summary will be shared with the responsible manager(s) as early as possible, since they may form the basis for management's acceptance and transmittal of the final draft program review report. Following completion of the final draft report, cover letter, and executive summary, the team leader will initiate the internal review procedures for these documents. All team members will have the opportunity to review and comment on the final draft report.

#### State Program Response to the Draft Report

The State Program will be given up to 30 days from their receipt of the final draft report to respond and comment on the report. If comments are not provided within 30 days, the State Program may contact EPA and provide an update on the projected completion date in order to extend the review period. If no comments are received or the State Program has not provided a projected completion date the report may be issued as final, and the responsiveness summary will note that the State Program made no comments.

To speed the transmittal of the State Program's comments to the team, the cover letter to the State Program will request that comments be returned to the responsible manager with a copy provided to the team leader, and that the State Program emails a copy of the comments directly to the team leader.

#### Distribution of Comments

Upon receipt of comments, the team leader will immediately distribute them to each team member with a deadline for response. If someone other than the team leader receives the comments, that person will immediately provide the comments to the team leader.

#### Response to Comments

The team will have up to 30 days to respond to the comments, modify the report, develop the responsiveness summary, and issue the final report. The team leader and members will meet to discuss comments and to determine a due date for submitting the draft responses to comments to the team leader.

#### Final Report

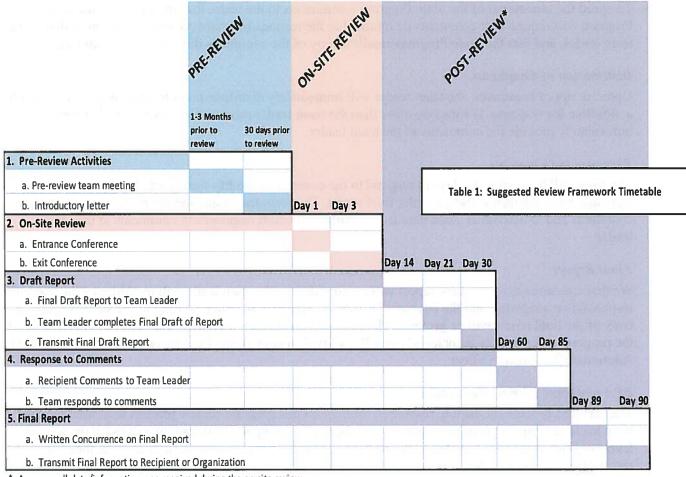
Written concurrence on the final report will be provided by the team leader, all members of the team, the responsible manager(s), and the Division Director as appropriate. After sending to the state program, a copy of the final report will be provided electronically to all team members and others as appropriate. If the program under review is included in a PPG, provide a copy of the final report to the respective PPG Administrative Project Officer.

#### EPA and State Dispute Resolution

The standard process for dispute resolution throughout this program review process is as follows: the team leader attempts to resolve disputes (with appropriate support from team members) at the lowest level possible. Issues are elevated to the responsible manager(s) for resolution only when they cannot be resolved by the team leader.

#### Schedule Relative to the Exit Conference

The following timeframes are regional guidance for the completion of tasks. While some programs may conduct these tasks in a slightly different order or may omit some tasks listed, this schedule will be viewed as the standard for the program review process.



<sup>\*</sup> Assumes all data/information was received during the on-site review

#### C. GUIDANCE FOR DEVELOPING PROGRAM SPECIFIC CRITERIA

Each program may choose to develop specific guidance for conducting program reviews or use guidance required by Headquarters. These documents will serve as training for new program reviewers and as a means to provide uniform review coverage among our multiple partner agencies. These documents should also be shared with state programs in order to communicate requirements for an adequate delegated program.

#### SECTION V: TRACKING SYSTEMS AND RECORDS

During the exit conference recommendations made and deficiencies (if any) identified by EPA are provided verbally to the State Program of the program review. Frequently, minor discrepancies can be corrected at the time of the review; however, for more detailed recommendations and program deficiencies, an action plan with specific timelines will be discussed. This discussion will begin at the

exit conference while all parties to the program review are present. Within 30 days following the program review the final draft written report is sent to the State Program including any recommendations and identification of any deficiencies that require corrective actions.

Many programs meet by conference call, or have face-to-face meetings on a regular basis and these issues could be addressed during those meetings as a regular agenda item. Some program project officers converse frequently with their state counterparts and these items could be discussed periodically.

Within 30 days of receiving the comments from the State Program, the team leader will finalize the program review report and send a copy of the final report to the State Program. The team leader will place a copy in the EPA program file, or project officer six part folder if a grant or cooperative agreement provides funding for the State Program. In addition, the project officer shall enter the information and supporting documents in the Integrated Grants Management System (IGMS) Grantee Compliance and Recipient Activity Summary (GCRA) database.

The EPA programs are responsible for tracking and ensuring that findings are resolved. Findings which are not resolved in a timely manner must be elevated to EPA management.

#### SECTION V: TRACKING SYSTEMS AND RECORDS

The IGMS GCRA database is a central repository for information related to EPA grant recipients.

All advanced monitoring activities, including program reviews, must be recorded in the system. The database tracks information regarding On-Site Evaluations and/or Off-Site Evaluations conducted by each Grants Management and Program Office in the Agency.

The primary objective of this database is to provide accurate information to EPA staff in Headquarters, Regional Program and Grants Management Offices regarding compliance activities that each Program and Grants Management Office performs or plans to perform during the calendar year.

The draft final program review report is entered in the GCRA database by the project officer at the same time it is transmitted to the recipient. If the program review results in no findings or major deficiencies the GCRA report can include a closed date. The project officer replaces the draft final program review report in GCRA with the final program review report at the same time the final program review report is transmitted to the State Program.

Project Officers will contact the Division Grant Coordinator or the program's Grant Specialist for specific instructions and access to GCRA.

#### Program Oversight Activity Recordkeeping Requirements

Recordkeeping requirements for EPA's oversight of State Programs are described in EPA Records Schedule 203, "State and Other Entity Relations and Oversight Files" which can be found in Appendix 4 of this guidance document. All records prepared in the course of conducting a formal program review, as well as documents of routine, day to day, program relation and oversight activities will be maintained in accordance with this EPA Records Schedule. Examples of records of ongoing State Program relations

and oversight include documents such as notes from State Program/EPA coordination meetings and conference calls; review and comment on state permits; and EPA reports of state inspection oversight.

The program review team leader will take responsibility for ensuring that team members are aware of the need to retain records associated with the program review effort in accordance with the Record Schedule 203, and filed according to the program's file management plan.

Program Review Decision Criteria found in Appendix 2 of this guidance is a RS 203 record when complete each year. In cases where the program decides that a program review is not necessary, this document will be maintained with the collection of records of routine, day-to-day, program relation and oversight activities in accordance with the EPA program's file management plan. In those cases, maintaining a collection of records that document EPA's program relation and oversight activities becomes particularly important to demonstrate to third parties such as the Inspector General's office or the Government Accountability Office that the region is conducting adequate oversight of State Programs.

## APPENDIX 1 – APPLICABILITY OF PROGRAM REVIEW GUIDANCE TO REGION 7 PROGRAMS

Tab 1A: Air & Waste Management Division

Program	Statutory Basis	Statute	Federal Delegation	Regulatory Basis	Program Grants	Repeating Project Grants	Subject to Program Review Guidance?
Air	Yes	CAA 105	Yes	Yes	Yes	Yes	Yes
Air	Yes	CAA 103 (See Footnote 1)	Yes	Yes	Yes	Yes	Yes
Air	Yes	CAA 110	Yes	Yes	Yes	Yes	Yes
Air	Yes	CAA 111	Yes	Yes	Yes	Yes	Yes
Air	Yes	CAA 112	Yes	Yes	Yes	Yes	Yes
Air	Yes	CAA 502	Yes	Yes	Yes	Yes	Yes
Air	Yes	CAA 507	Yes	Yes	Yes	Yes	Yes
RCRA	Yes	SWDA Section 3006	Yes	Yes	Yes	No	Yes
UST	Yes	SWDA 9002	Yes	Yes	Yes	No	Yes
TSCA-PCB	Yes	TSCA Sub Chapter I Section 6(e)	No	Yes	Yes	No	Yes
Radon	Yes	TSCA Sub Chapter III	No	No	No	Yes	No
Indoor Air	No	N/A	No	No	No	No	Voluntary
MSW-Landfills (D)	Yes	(See Footnote 2)	Yes	Yes	No	No	No (2)
Radiation	No	N/A	No	No	No	No	Voluntary
P2	Yes	(See Footnote 3)	No	No	No	No	No (3)
Solid Waste - §8001 (H)	Yes	(See Footnote 4)	No	No	No	Auth.	No (5)

<sup>&</sup>quot;Auth." means that the program has the authority to provide repeating project grants, although currently no grants exist for this program.

#### Footnotes:

- CAA 103 grants are for Particulate Matter monitoring and are audited every three years per 40 CFR Part 58. Rarely do the CAA 103 and CAA 105 program reviews fall on the same year; however, the CAA 103 audit results are included in the CAA 105 Program Review report.
- 2 EPA makes a one-time approval of state municipal solid waste landfill permit programs that meet minimum statutory and regulatory requirements. EPA does not have the authority to operate a program in the absence of an approved state program and does not have authority to review state programs or withdraw state program approval.
- 3 Pollution Prevention programs are voluntary and EPA believes they should not be subject to the program review guidance.
- 4 Solid waste programs under §8001 are viewed as voluntary in nature unless they are accompanied by repeating project grants. EPA historically has not provided repeating project grants in a manner that constitutes a continuing program grant, and does not expect to offer future grants in a way that would generate a requirement for a program review. Thus, under current conditions this program would not be subject to the program review guidance.

Tab 1B: Superfund Division Programs

Program/ Cooperative Agreement	Statutory Basis	Statute	Federal Delegation	Regulatory Basis	Program Grants	Repeating Project Grants	Subject to Program Review Guidance
Core	Yes	CERCLA	No	Yes	Yes	Yes	Yes
Pre-Remedial	Yes	CERCLA	No	Yes	Yes	Yes	Yes
Support Agency	Yes	CERCLA	No	Yes	Yes	Yes	Yes
Enforcement	Yes	CERCLA	No	Yes	Yes	Yes	Yes
Removal	Yes	CERCLA	No	Yes	Yes	Yes	Yes
Site-Specific	Yes	CERCLA	No	Yes	Yes	Yes	Yes
Research	Yes	CERCLA	No	Yes	Yes	Yes	Yes
Brownfields 104(k) (See Footnote 2)	Yes	CERCLA (See Footnote 1)	No	Yes	Yes	No	Yes
Brownfields 128(a) (See Footnote 3)	Yes	CERCLA (See Footnote 1)	No	Yes	Yes	Yes	Yes

#### Footnotes:

- 1 Brownfields Cooperative Agreements are authorized under the Small Business Liability Relief and Brownfields Revitalization Act, which amends CERCLA.
- 2 Brownfields 104(k) is not delegated to states or tribes. Recipients receive competitive cooperative agreement funds for specific projects and activities. Funds may be used for Hazardous Substance and Petroleum Assessment, Cleanup, or Revolving Loan Fund activities; Area-wide assessment planning or Environmental Workforce Development Job Training.
- 3 Brownfields State or Tribal Response Program 128(a) is not a delegated program. The funding is considered to be a continuing environmental program cooperative agreement.

Tab 1C: Water, Wetlands, and Pesticide Division Programs

Program	Statutory Basis	Statute	Federal Delegation	Regulatory Basis	Program Grants	Repeating Project Grants	Subject to Program Review Protocol?
FIFRA	Yes	FIFRA Sec 3-19	Yes	Yes	Yes	No	Yes
FIFRA Enforcement	Yes	FIFRA Sec 3-19	No (See Footnote 1)	Yes	Yes	No	Yes
NPDES	Yes	CWA Sec 402	Yes	Yes	Yes	No	Yes
Pretreatment	Yes	CWA Sec 402	Yes	Yes	Yes	No	Yes
Sludge	Yes	CWA Sec 405	Yes	Yes	Yes	No	Yes
CWSRF	Yes	CWA Sec 60	No (See Footnote 2)	Yes	Yes	Yes	Yes (2)
DWSRF	Yes	SDWA Sec 1452	No (See Footnote 2)	Yes	Yes	Yes	Yes (2)
Nonpoint Source	Yes	CWA Sec 319	Yes	Yes	Yes	Yes	Yes

Program	Statutory Basis	Statute	Federal Delegation	Regulatory Basis	Program Grants	Repeating Project Grants	Subject to Program Review Protocol?
Water Quality Mgmt Planning	Yes	CWA Sec 604(b)	No	Yes	Yes	Yes	Yes
Water Quality Standards	Yes	CWA Sec 402	No (See Footnote 3)	Yes	No	No	Yes
Public Water System Suprv	Yes	SDWA Sec 93-523	Yes	Yes	Yes	Yes	Yes
Public Water System Enforc	Yes	SDWA Sec 93-523	Yes	Yes	Yes	Yes	Yes
TSCA-Asbestos	Yes	TSCA Sub Chapter II	No	Yes	Yes	No	Yes
Asbestos- NESHAP	Yes	CAA 112	Yes	Yes	Yes	No	Yes
TSCA-Lead	Yes	TSCA Sub Chapter 4	Yes	Yes	No	Yes	Yes
TSCA-Lead §1018	Yes	(See Footnote 1)	No	Yes	No	No	No (1)
Well Head Protection	Yes	SDWA Sec 1428	Yes	No	Yes	No	No (See footnote 5)
SWA	Yes	SDWA Sec 1453	Yes	No	Yes	No	No (See footnote 5)
Underground Injection Control	Yes	SDWA Sec 1422- 1425	Yes (See Footnote 4)	Yes	Yes	Yes	Yes

#### Footnotes:

- 1. Under FIFRA Section 26, states shall have primary enforcement responsibility for pesticide use violations provided certain conditions are met. Therefore, states have primacy under FIFRA for pesticide use violations vs. delegation or authorization from EPA.
- 2. The CWSRF and DWSRF are not delegable to the states. However, the states do receive grants and do carry out related programmatic functions that require EPA review.
- 3. The Water Quality Standards program turns in a tri-annual report, which is reviewed, but no formal on-site program review is performed.
- 4. The UIC program has <u>not</u> been delegated in the state of Iowa.
- 5. Well-head and Source Water may receive funding through 106 or SRF respectively. Reviews would occur through those program reviews if applicable. Currently these programs are voluntary for the states.

Tab 1D: Office of the Regional Administrator

Program	Statutory Basis	Statute	Federal Delegation	Regulatory Basis	Program Grants	Repeating Project Grants	Subject to Program Review Guidance?
General Assistance Program (GAP)	Yes	Indian General Assistance Act 1992	No	No	No	Yes	Yes

Tab 1E: Enforcement Coordination Office

Program	Statutory Basis	Statute	Federal Delegation	Regulatory Basis	Program Grants	Repeating Project Grants	Subject to Program Review Guidance?
Environmental Justice - Small Grants	Yes	Executive Order 12898 Feb. 1994	No	No	Yes	No*	No
Environmental Justice — Collaborative Problem Solving Grants	Yes	Executive Order 12898 Feb. 1994	No	No	Yes	No*	No

<sup>\*</sup>The Environmental Justice program issues annual/bi-annual grants; however, the grants are not given to the same recipients year after year.

Tab 1F: Office of Public Affairs

Program	Statutory Basis	Statute	Federal Delegation	Regulatory Basis	Program Grants	Repeating Project Grants	Subject to Program Review Guidance?	Frequency
Environmental Education	Yes	Public Law 101-619, Nov. 1990	No	No	No	No*	No	l les
CARE	No		No	No	No	No .	No	

<sup>\*</sup> The Environmental Education program issues annual grants; however, the grants are not given to the same recipients year after year.

Page 17 of 2.3

#### APPENDIX 2 - PROGRAM REVIEW DECISION CRITERIA

The following questions will be incorporated into a decision document to determine if a Program Review should be performed during the current fiscal year, and/or what type of review will be utilized. The questions in this document are required; however, EPA program personnel have the option of adding additional program-specific questions in order to make an informed decision.

The decision process must be formally documented and made part of the state oversight file. This evaluation will be completed <u>no later than November 30</u>.

If no review is necessary, EPA program personnel will send a memorandum through the Branch Chief to the Division Director to document the decision.

Program	:Partner:	121-124 00 30 MSECT	
_		in contributions (e)	
rarget pe	eriod to be reviewed:	3717-171	-
State Co	ordinator or other R7 State Program Contact	frate,	
1. Legal	Requirements:	Yes	<u>No</u>
	A program review of the prior fiscal year (or other activities is required by statute.	target period)	_
I	f, "Yes", please list statutory basis (see Table 1 for	r reference):	98-2 <sup>1</sup> 1 000
2. Guida	ance or Policy	Yes	No
i	A requirement for a program review of the target p s indicated by national program guidance and the a acknowledges and accepts this as a requirement.		7057000
	National program-specific policy calls for a progra of the target period activities.	m review	
3. Other	Considerations to support a Program Review	Yes	<u>No</u>
• <i>H</i>	The non-federal agency has requested that EPA pe A regional IG audit found significant deficiencies in A national IG audit found significant deficiencies in An external party investigation has revealed significant	in this program.	
• ]	or potentially illegal results in the implementation Documented, routine program oversight by the Re- more thorough evaluation of the state agency's imp	of this program gion indicates that a	_
• 1	program is warranted. A Regional review is required to support delegatio program elements, or recently delegated program e		_

		- [유진원회의 :: [설립 () 전 [시간] 프립스트 [인경기 ::
		ssary due to significant changes with regard
to deleg	gated ager	ncy authority, funding/budget status,
reorgan	iization, o	r staff changes
• The nu	mber and	r staff changes type of FOIA requests, congressional inquiries
or citiz	en compla	aints and inquiries indicates a high level of
		est of questions about the implementation of the
• Other c	onsiderat	ions (please specify) indicate the need for a
progran	n review	A Company of the second
4 Decision	COLUMN TO STATE	Principles of the first temporary P.P. (program temporary for the value of
Type of	f review t	o be performed:
		rehensive)
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	Off-sit	
1	targeted	
-		stant Constitute a product R7 Stant Parister and
	On-sit	
	_Off-sit	
		sment/full
5 <del></del>	selt-assess	sment/targeted
	no review	s was noticine, in a software
Please indicat	e the appr	roximate period of time the program review will take place:
Reviewed by:		Date
Concurrence		
Concurrence_		
Concurrence_		Date has a second and the first had a second
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		Other Considerant, as to carry it a Pic or as F. J. sw.
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		The non-federal agent, less requests all tests UPA must annua et less.
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		management of the existing that we have been able to be about the contract of
		A regression of conditioned agent and defit among as the regions.  An external party in a struction are according to a sent and a second according to the conditions.
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		An external party investion, insure cased agrafaced a level of or property of the programs of the community of the programs.  I becommunitied, resting programs or energy by the Magion mutical is that a
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		An external party investigation, assumed as a similar to a long or potentially diegol results in the conjecture and as program than another thorough confustion of the state agency a important amount is warranted.
		An external party investigation, assumed all againment all cross or or potentially dilegal results in the conject by the leading and a later material sport of the program and a store through confusion of the store against a maplementation of the

## Appendix 3 - GLOSSARY OF TERMS

Gr	ant Post-Award Monitoring & Grant Terms
*Baseline Monitoring	Baseline monitoring is the minimum, basic monitoring that should take place on every grant issued by the Region. Included in EPA Order 5700.6A2 is an example of the baseline monitoring checklist.
*EPA Policy on Compliance, Review, and Monitoring (5700.6A2): Approval Date: 09/24/2007	A national EPA Order created to ensure effective oversight of a grant recipient's performance. Expected results of the policy are: (1) continued improvement in post-award efforts; (2) identifiable and documented post-award activities, and: (3) coordinated program and Grants Management Offices (GMOs) post-award efforts. The policy contains specific requirements for GMOs and for Program Offices.
*GMO Advanced Monitoring:	Advanced Monitoring is the process by which a recipient's compliance with applicable administrative and financial statutes, regulations, conditions and policies is evaluated. This can take place through the use of on-site evaluations or off-site evaluations (desk reviews).
* Grantee Compliance and Recipient Activity Summary	The Grantee Compliance and Recipient Activity Summary is a database that stores historical and prospective data on all Advanced Monitoring Activities, including on-site and off-site evaluations. The use of the database to record advanced monitoring activities is required.
*Off-site Evaluation (Desk Review):	An advanced monitoring technique where the GMO or Program reviews recipient administrative, programmatic and/or technical procedures, progress and capacity. Typically, these evaluations are conducted by telephone, away from the recipient's location, utilizing a suggested guidance.
*On-site Evaluation:	An advanced monitoring technique where GMO or Program representatives visit a recipient's site. For GMOs, these evaluations follow a suggested guidance and include the review of recipient administrative procedures and capabilities. For Programs, these evaluations may follow a suggested guidance and include the review of recipient programmatic and technical progress and capabilities.
*PO Off-site/On-site Review Guidance	A formal checklist (contained in EPA Order 5700.6A2) used by the Project officer to perform an off-site or on-site advanced monitoring review. GMOs also have a specific checklist for their reviews.
*Program Office Advanced Monitoring:	Advanced Monitoring is the process by which a recipient's compliance with applicable programmatic and financial statutes, regulations, conditions and policies is validated. This can take place through the use of on-site evaluations or off-site evaluations (desk reviews).
*Regional Post-Award Monitoring Plan	This plan outlines regional Post-Award Monitoring commitments for the year.
40 CFR Part 35.115 Evaluation of Performance	A regulatory grant requirement to develop a joint process for reporting progress and accomplishments in a state grant work plan. This requirement affects state continuing environmental programs only.
R7 Order on Post- Award Monitoring	A regional policy developed to combine the annual process of identifying program reviews and post-award monitoring reviews.  der on Compliance, Review, and Monitoring (5700.6A2).

<sup>\*</sup> Terms refer to EPA's Order on Compliance, Review, and Monitoring (5700.6A2).

	Program Review Terms
Comprehensive Program Review	Full program review means a review covering all or nearly all portions of the specific environmental program being implemented by the non-federal agency. A comprehensive review will cover the major program areas (functional or organizational) normally associated with the implemented program. The review will cover conformance with applicable federal and delegated agency requirements, policies, and procedures; conformance with the performance partnership agreement or other consensus agreement; internal and external coordination of the program with other federal and non-federal organizations; management activities; and consistency of the program with respect to its implementation agreement.
Delegated Programs	The program review guidance covers programs for which EPA bears oversight responsibility, but which are not implemented exclusively by EPA. These programs are commonly referred to by their terms "delegated," "authorized" or "primacy" programs, but this category also includes work sharing agreements, pilot programs, interim authorization work, and other similar arrangements. This category includes state primacy programs for which EPA bears statutory or regulatory oversight responsibility, as well as joint implementation programs such as Superfund. The key concept is that someone else performs all or portions of the work on behalf of or in lieu of EPA.
Delegation, Authorization, Primacy	Terms used to describe a state's authority to run a program on behalf of EPA.
Environmental Programs	Programs may be categorized by environmental medium (e.g., air, water, or waste) or by area of emphasis (e.g., health programs or environmental programs).
Grants	Programs that are supported by grants or other forms of financial assistance. For simplicity, all such financial assistance, including cooperative agreements, will be defined and referred to as "grants."
OECA State Review Framework (SRF)	A program management tool designed to consistently assess state core CWA, CAA, and RCRA enforcement and compliance assurance programs.
Oversight	For purposes of this guidance, oversight refers to all formal activities by which EPA monitors the performance of delegated programs.
Partial or Targeted Review	A partial, focused, or targeted review means an on-site review covering one or only a few portions of the environmental program being implemented by a partner. In general the partial review will be as in-depth as a full review, but will have a reduced scope since it will focus on only a portion of the overall environmental program.
Program Assessment Rating Tool (PART)	A formal evaluation instrument used by OMB to assess the effectiveness of government programs. The PART evaluations are used by OMB as factors in the annual federal budget process. The specific programmatic measures evaluated during a PART assessment can influence the focus of a state program review.
Program Managers/Branch Chiefs	Postions within Region 7 that have responsibility for managing a regulatory program at the Branch Chief level or below
Program Review	A periodic, formal evaluation of a program. Typically, the program has been delegated to a state to run on EPA's behalf, although this is not always the case. The evaluation results in a written report of findings, deficiencies, and recommendations for improvement.

Program Review Terms				
Program Review (con't)	The generic phrase "program review" is generally used to describe an on-site or desk review of all or part of a program for which EPA bears oversight responsibility. The review can be either a "comprehensive," "partial," or "targeted" program review. A program review is differentiated from other types of program oversight such as day-to-day formal activities (e.g., periodic telephone calls, meetings, or review of correspondence in the regional office) in that a program review includes a review of material in the delegated agency's files, an evaluation of the documentation and coordination for the partner's decisions, and a formal written report with a formal response from the partner.			
Program Review Team Leader Self Assessment	Denotes the individual in Region 7 taking responsibility for leading a program review and is generally in a non-supervisory position  Program reviews can be performed as "self-assessments". In a self-assessment, the non-federal agency performs an internal review of their program and responds to the questionnaire provided by EPA, or provides a report to EPA summarizing the internal findings. EPA independently reviews the program documentation and may further conduct staff interviews if appropriate. If the Program allows self-assessments, this would be in lieu of a review by EPA every four years.			
Senior Manager/Division Director	Leadership positions within Region 7 that leads an organization at or above the "Office" or "Division" level			
State Program	For purposes of this guidance document a State Program refers to a state, tribal or local agency implementing an environmental program, or part of a program for which EPA retains oversight authority.			

#### Appendix 4 - EPA RECORDS SCHEDULE 203

Status: Final, 03/30/2007

Title: State and Other Entity Relations and Oversight Files

Program: All Programs

Applicability: Agency-wide

Function: 301-093 - Program Monitoring

#### **NARA Disposal Authority:**

This schedule authorizes the disposition of the record copy in any media (media neutral), excluding any records already in electronic form. Records designated for permanent retention must be transferred to the National Archives in accordance with NARA standards at the time of transfer.

N1-412-07-1/9

#### **Description:**

Contains records used to oversee programs operated in lieu of a federal program by states and other entities. Includes reports, inspections, inventories, correspondence, program reviews, and corrective actions.

#### **Disposition Instructions:**

Item a: Record copy

- Disposable
- Close inactive records at end of year.
- Destroy 10 years after file closure.

#### Guidance:

The headquarters or regional office responsible for oversight is responsible for retaining the record copy. All other copies can be destroyed when superseded or no longer needed. RCRA solid waste management plans are covered by EPA 201; state authorizations and approvals by EPA 204; RCRA corrective actions by EPA 206; and state implementation plans by EPA 217.

Records related to monitoring state and local air pollution programs are permanent records and are scheduled as EPA 237.

For grants and other program assistance agreements, see EPA 003 for programs other than Superfund site-specific and EPA 001 for Superfund site-specific.

See EPA 686 for development and enforcement of air and water standards by states maintained by the headquarters Office of Enforcement and Compliance Assurance and

EPA 676 for development of enforcement and environmental standards by states maintained by the Office of General Counsel.

Previous schedule items combined into this schedule were for the following programs: Solid Waste, Emergency and Remedial Response, Water, Air and Hazardous Waste, Enforcement and Environmental Services. Specific item numbers are cited below.

Specific legal citations include, but are not limited to:

- Resource Conservation and Recovery Act, as amended, Section 3006
- Clean Water Act, as amended, Section 1251
- Safe Drinking Water Act, Section 1413
- Clean Air Act, as amended, Section 107
- Federal Insecticide, Fungicide, and Rodenticide Act, as amended, Section 24
- 40 CFR Parts 52, 123, 142, 173, 233, 271 and 281

#### **Reasons for Disposition:**

The disposition instructions have been rewritten as media neutral to allow for maintaining the record copy in EPA's electronic recordkeeping system. The retention is unchanged. Item b for electronic copies created with word processing and electronic applications was deleted 08/17/2006 pursuant to NARA Bulletin 2006-04.

#### **Custodians:**

Multiple units

#### **Related Schedules:**

EPA 001, EPA 003, EPA 201, EPA 204, EPA 206, EPA 217, EPA 237, EPA 676, EPA 686

#### **Previous NARA Disposal Authority:**

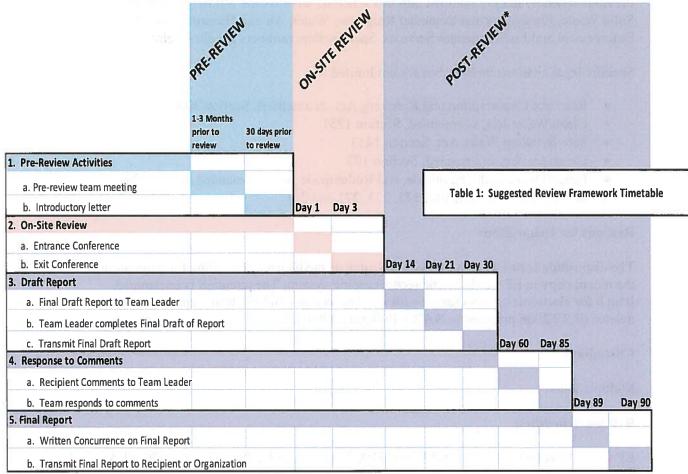
NC1-412-85-7/5, NC1-412-85-10/9 and 11, NC1-412-85-17/14 and 19, NC1-412-85-20/9 and 15, N1-412-94-2/32

Entry: 02/20/1992

**EPA Approval:** 09/18/2006

**NARA Approval:** 01/26/2007

### Appendix 5 – PROGRAM REVIEW TIMETABLE TEMPLATE



<sup>\*</sup> Assumes all data/information was received during the on-site review

#### APPENDIX 2 – PROGRAM REVIEW DECISION CRITERIA

The following questions will be incorporated into a decision document to determine if a Program Review should be performed during the current fiscal year, and/or what type of review will be utilized. The questions in this document are required; however, EPA program personnel have the option of adding additional program-specific questions in order to make an informed decision.

The decision process must be formally documented and made part of the state oversight file. This evaluation will be completed <u>no later than November 30</u>.

If no review is necessary, EPA program personnel will send a memorandum through the Branch Chief to the Division Director to document the decision.

Prograi	m: UST's Partner: MDNR	I Uze	_
Target	period to be reviewed: Lifespan of Program	INES	-
State C		ouare	, CPG
1. Lega	al Requirements:	Yes	No
	A program review of the prior fiscal year (or other target period) activities is required by statute.	X	
	If, "Yes", please list statutory basis (see Table 1 for reference): SWC	P AC	002
2. Guid	dance or Policy	Yes	No
	A requirement for a program review of the target period activities is indicated by national program guidance and the region acknowledges and accepts this as a requirement.	X	- 8.75
	National program-specific policy calls for a program review of the target period activities.	X	_
3. Oth	er Considerations to support a Program Review	Yes	<u>No</u>
•	The non-federal agency has requested that EPA perform a review.  A regional IG audit found significant deficiencies in this program.  A national IG audit found significant deficiencies in this program.  An external party investigation has revealed significant adverse	_	XXX
•	or potentially illegal results in the implementation of this program.  Documented, routine program oversight by the Region indicates that a more thorough evaluation of the state agency's implementation of the	_	X
•	program is warranted.  A Regional review is required to support delegation of new program elements, or recently delegated program elements.	<u>X</u>	<u>×</u>

w

# AGENDA 2016 Missouri Tanks Program Review Corrective Action Component June 9, 2016 Introductory Meeting

App. Time	Subject Matter
9:30 - 9:35	Good mornings, introductions, sign in sheet (5 minutes)
9:35 - 9:45	Background, goals and format (10 minutes – USEPA, R7)
9:45 – 10:15	Q & A with MDNR management/staff (30 minutes – USEPA, R7 takes lead but all participate)
10:15 – 10:45	MDNR data presentation (30 minutes – MDNR)
10:45 – 11:00	Updates from MDNR on Zil's and Main Street Shell (15 minutes – MDNR)
11:15 – 11:25	Final Q & A (10 minutes – All)
11:25 – 12:15	Break (Lunch)
12:15 – 4:30	Project Manager Interview and Project File Review (Rest of day – shooting for at least three projects – Zil's, Main Street Shell, Joplin)
4:30 - 5:00	Close-out meeting and planning for team visit



## DIVISION OF ENVIRONMENTAL QUALITY HWP - TANKS SECTION MEETING SIGN-IN SHEET

SUBJECT: EPA Program Review

**DATE:** June 9, 2016

NAME	REPRESENTING	ADDRESS	E-MAIL ADDRESS	PHONE #
Ken Koon	MODER Tanks	f. d. Box 176	If new address, check box	(573) 526-2058
Lawa Luther	MDNR Tauks	P.O. Box 174, Jamo	laura luther Q dnr.mo.gov	573-522-2092
Aaron Schnist	MANR DEQ		acron. Schwid @ drr. mager	573-751-0763
Appm Cooni		Po Box 176 Semo	CIDAM. COOL ONR. ME. GOV	573 - 526 - 6730
Chrin Veit	MONR TANKS	PU.BOX 176 JCMO	chais, veitadan Moi	573-526-2731
Argie McMizhael	MONR-HUR-BAS		angie.mm.cheel@dnrms	573 751 2553
Diane Matthews	MDNR-BEQ Admin	PO BOX 176 JCMO	diane matthews @	573 - 751-1449



#### DIVISION OF ENVIRONMENTAL QUALITY HWP - TANKS SECTION MEETING SIGN-IN SHEET

SUBJECT: EPA Program Review

**DATE:** June 9, 2016

NAME	REPRESENTING	ADDRESS	E-MAIL ADDRESS	PHONE #
Layre Washburn	MONR-HWP	If new address, check box  P.O. BOX 174  Jefferson Citymo	If new address, check box	(573)761-2792
Cindy Luebbering	MONR-DAS Accounting	1101 Prevside Dr J.C.M.D	Cindy. luebbering Odnr.mo.gov	573·751·1117
Nork	MONE-DES Troternel Audit	1101 Riverside Dr.	Mark rungan	573.751.1348
Rungan	Internal Audit	JC NO	@ gur. wo. gor	319.15.15
Douglas E. Dronare	USEPA	1120 Renner Bld. Lenexa, KS 66219	drouare, douglas	(913) 551-7299
Mike Markin	MDUR HWP	1 · · · · · · · · · · · · · · · · · · ·		
Steve Sturgess	MONR HOP	((	Steve. Sturgess a dur. mo.gov	573-751-2747
Pachelle	MONR HWP	[ (	raechell. henteyadnr. mo.gov	573-526-9546



#### DIVISION OF ENVIRONMENTAL QUALITY HWP - TANKS SECTION MEETING SIGN-IN SHEET

SUBJECT: EPA Program Review

DATE: June 9, 2016

NAME	REPRESENTING	ADDRESS	E-MAIL ADDRESS	PHONE #
Mary Miller	DNR-GCO	If new address, check box	If new address, check box	751-0323
Dey Will	- DUR G CO			751.032
Leanne TMosby	DNR-DEQ			(573) 751-0763
		8		

# UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 7

11201 Renner Boulevard Lenexa, Kansas 66219 JUN 1 0 2016

Ms. Carol Eighmey
Executive Director
Missouri Petroleum Storage Tank Insurance Fund
P.O. Box 836
Jefferson City, Missouri 65102

RE: FY 2016 Underground Storage Program Reviews Corrective Action Component

Dear Ms. Eighmey:

The purpose of this letter is to confirm that the U.S. Environmental Protection Agency, Region 7 has commenced its review of the corrective action component of Missouri's underground storage tank program. We are focusing on actions taken to address the findings of our 2012 program review of the same component; specifically, steps Missouri has taken to address the backlog of leaking underground storage tank cleanups.

We have determined that this process requires a discussion with Petroleum Storage Tank Insurance Fund staff and the review of PSTIF files. This includes the staff and files of contractors hired by PSTIF. The review process will entail several EPA staff visiting your offices and reviewing these files.

We will be attempting to reconstruct the timeline for significant events on individual projects from release notification to current status. The goal would be to identify investigation/closure delays and their causes. PSTIF may suggest some of the projects that will be reviewed by our team during this program review. However, we will make requests to review specific files. A list of these projects will be provided prior to our visit.

To facilitate the review, EPA staff will need access to a private room, desktop/tabletop space and a copy machine. We anticipate requesting copies of a significant number of records. We currently plan on including a staff person on our team to facilitate the copying process but are requesting the use of your copy machine. We will bring the paper.

We are hoping to schedule our visit in late July or early August 2016. *Please provide us with a list of several, three-consecutive-day time periods when we could schedule our visit.* Should you wish to provide us with written commentary/documentation regarding program review subject material prior to our visit, you are welcome to do so. We are also willing to set aside a portion of our on-site visit to engage in conversation with you regarding subject material.

We greatly appreciate the efforts of your staff in assisting with the review. Our UST program contact for this review is Douglas Drouare, and he can be reached at (913) 551-7299. Please feel free to contact



John Smith directly at (913) 551-7845, if you would like to discuss any aspect of the program review.

Sincerely,

John Smith

Deputy Director

Air & Waste Management Division

### **Drouare, Douglas**

From: PSTIF <pstif@sprintmail.com>

**Sent:** Monday, June 27, 2016 2:38 PM

To: Drouare, Douglas
Cc: David Walters

Subject: Suggestions for EPA file reviews

Categories: EZ Record - Shared

Thank you for inviting some suggestions from us for your team's file reviews. I had asked staff to be thinking about this, but did not anticipate you would need our response this soon, so we did not spend as much time assembling these recommendations as I would have liked. Nevertheless, we believe these files would be good candidates for your reviews and would provide various insights into the challenges encountered with regard to getting files closed:

ST135	R7317	Claim 60637 Jones Truck Stop, Cameron
ST6957	R7612	Claim 61748 Weston Depot
ST3304	R5762	Claim 40050 Former Total #4405, Kansas City
ST7355	R2440	Claim 50270 Murphy Express #8654, Poplar Bluff
ST10044	R3027	Claim 50363 Former BP 678 (now Gasmart 22), St Louis
ST7230 ST9854 (These two cl	R2219 R6608 leanups in Aur	Claim 50232 Former Campbell's #2, Aurora Claim 51869 Coca Cola, Aurora rora are being done as one consolidated project.)
ST9202	R6799	Claim 51948 Former Henry's Automotive, Imperial
ST1090	R3694	Claim 60187 Cassens Transport, Fenton
ST7198	R2093	Claim 50210 KC School District
ST1770	R8157	Claims 62581 (ineligible) and 62768 (eligible)

Expressways Food Shop, Warrensburg site, we suggest reviewing both DNR and PSTIF files, a

(If you choose to review the files for this site, we suggest reviewing both DNR and PSTIF files, as there is correspondence in the PSTIF file that may not exist in the DNR file.)

Thanks again,

Carol R. Eighmey
Executive Director
MO Petroleum Storage Tank Insurance Fund
PO Box 836
Jefferson City, MO 65102
573-522-2352

**From:** Drouare, Douglas [mailto:drouare.douglas@epa.gov]

**Sent:** Tuesday, June 21, 2016 7:25 AM

To: pstif@sprintmail.com

Cc: Hayes, Scott

Subject: RE: EPA's request to review PSTIF files

Good morning Carol,

The MO tanks program review resumes in earnest next week. On Tuesday, Wednesday and Thursday a team from our office will be interviewing MDNR LUST project/case managers and reviewing specific project files. **Do you have any suggestions for specific projects that should be targeted by our review process?** 

We are checking our team's schedules for July and August so that we can coordinate a visit to PSTIF's offices. Our visit will most likely be in August. We will get back with you in the coming weeks regarding a proposed schedule. We can provide copy paper if that would help reduce copying charges.

Douglas E. Drouare, CPG USEPA, Region 7, AWMD - STOP 11201 Renner Boulevard Lenexa, Kansas 66219 (913) 551-7299 drouare.douglas@epa.gov

From: PSTIF [mailto:pstif@sprintmail.com]
Sent: Thursday, June 16, 2016 9:52 AM

To: Drouare, Douglas < drouare.douglas@epa.gov >

Cc: Smith, John < Smith.John@epa.gov>
Subject: EPA's request to review PSTIF files

### Doug,

Yesterday we received the June 10<sup>th</sup> letter from John Smith, asking us for dates in late July and early August when you and your colleagues can visit our offices. For the purposes of file reviews, we can accommodate you any time. As of now, Dave Walters and I are available for conversation any dates except the following:

July 26, unavailable August 5, unavailable August 18, unavailable

We will be glad to provide a conference room and files for your review; however, given that our files are regularly used by members of our staff, we will need a list of the files you wish to review at least three days in advance of your visit so we can assemble them. If any of the files require review by our legal counsel, additional advance notice may be required, so please provide the list at your earliest convenience.

With regard to copying documents, we do not have a copy machine available for your use; however, as we routinely do with other document requests, we will promptly make copies for you. Depending on the volume, it may require a few days after your visit to accomplish this. Also, while we will be glad to provide a small number of copies free of charge, if the volume is substantial, we may need to charge a reasonable copying fee, as allowed under Missouri's Sunshine Law.

We look forward to hearing from you as you finalize your plans.

Regards,

Pyr B

Carol R. Eighmey
Executive Director
MO Petroleum Storage Tank Insurance Fund
PO Box 836
Jefferson City, MO 65102
573-522-2352

6 ---

### **Drouare, Douglas**

From:

Drouare, Douglas

Sent:

Monday, August 01, 2016 9:21 AM

To:

pstif@sprintmail.com

Cc:

Hayes, Scott; Wilfredo Rosado-Chaparro; Raymond Bosch; Collins-Allen, Heather

Subject:

August 9 & 10 MO LUST CA Program Review Logistics - PSTIF Visit

#### Good morning,

Here is a list of files we would like to review and discuss with your staff/contractors next week...

<b>Douglas Drouare Project Selection</b>			
Casey's General Store #1033	OW00263	ST0010486	R003271
Casey's General Store #2695	OW00263	ST0000003	R008384
Davis Automotive	OW10408	ST0013563	R007247
Wilfredo Rosado-Chaparro Project	Selection		
Kennett Conoco	OW10285	ST0012698	R008151
Amoco Oil 16738	OW10005	ST0001047	R001041
Break Time #3156	OW10215	ST0009284	R008920
Raymond Bosch Project Selection			
Jones Travel Center	OW21286	ST0000135	R007317 R008125 R009066
Fastrip #40 Joplin	OW03402 OW08843 OW22114	ST0009304	R008697
Juniors Food Mart	OW10163	ST0011205	R001044

We would like you to provide two additional projects/files for each of our reviewers (total of five for each reviewer for a grand total of fifteen) that you would like to discuss with us. It may be a good idea to have a third project/file ready should time allow.

Our focus will be on historical progression of projects. We hope to review/discuss each project with your staff in a chronological manner (release date to current). We hope that all necessary staff and records will be available for that review/discussion.

We hope to have each of our reviewers (noted above) in separate, concurrent sessions discussing these projects/files. We may have to figure out scheduling "on the fly" as there may be some staff/project overlaps. We will be flexible.

We are going to try and minimize our requests for copies and rely on notes from observations/discussions. If we do see something we would like a copy of we will sticky note it.

It sounds like we will be having a discussion with your management and the MDNR regarding your general perspective on LUST CA work in MO and your opinions on problems and successes.

We would like to start each day's activities at 8:00 AM or as early in the morning as your schedule allows. We would like to be able to wrap-up by 4:00 PM on the 10<sup>th</sup>.

More discussion on logistics to follow I am sure.

Douglas E. Drouare, CPG USEPA, Region 7, AWMD - STOP 11201 Renner Boulevard Lenexa, Kansas 66219 (913) 551-7299 drouare.douglas@epa.gov

### **Drouare, Douglas**

From: Drouare, Douglas

**Sent:** Friday, August 05, 2016 10:51 AM

To: pstif@sprintmail.com; 'dww@willconsult.com'

Cc: Raymond Bosch; Wilfredo Rosado-Chaparro; Collins-Allen, Heather; Hayes, Scott

Subject: FW: 2016 MO Program Review & Next Week's Visit

Categories: EZ Record - Shared

It's our understanding you and your colleagues plan to be here August 9 and 10. You're welcome to arrive at 7:30 or any time thereafter; please use the entrance on the east side of the building. As mentioned, we have two conference rooms, so there will be sufficient workspace for multiple persons.

#### We will shoot for 8:00 AM each day

We do not have time to prepare chronologies for you before next week, and I confess to being confused as to which files you need them for, if DNR has already prepared them for you? If you wish to share the chronologies prepared by DNR, we'll try to review them and add pertinent events/communications.

The chronologies are optional. If you choose to do them they do not have to be ready at the time of the review. They can be transmitted at a later date. Past experience indicates that there can be differences of opinion between the MDNR and PSTIF. So, we wanted to give you the opportunity to present your perspective on all 15 projects (the 9 we selected and the 6 you selected). We can follow up with the transmittal of the chronologies the MDNR has presented to us.

My Claims Manager and I will make ourselves available as we can during your two-day visit. Depending on what questions you have, we also may engage the environmental claims specialist assigned for each file by telephone. Most of those personnel are in Kansas City or St. Louis, and may be "in the field," so as you noted, some flexibility may be required, but we'll do the best we can.

#### Sounds good

We have one request of you and your team: In preparation for our discussions, would you please review the claims regulations promulgated by the PSTIF Board of Trustees? Those rules will form the basis of much you will hear us say, so it is imperative you and your colleagues are familiar with them. You can access them here: <a href="http://s1.sos.mo.gov/cmsimages/adrules/csr/current/10csr/10c100-5.pdf">http://s1.sos.mo.gov/cmsimages/adrules/csr/current/10csr/10c100-5.pdf</a>

#### We will check these out before our visit on Tuesday.

None of the files listed in your email are ones we previously suggested for your review, and your recent email again asked me for suggestions. Did you receive my June 27 email that contained a list of files we recommended for review? Did you review any of those files while at DNR?

The nine we listed are our selections from those that we have already reviewed at the MDNR offices. We are counting on you to select six from your e-mail list: or any six projects for that matter. That should bring us up to a total of 15 files reviewed. We will be following up with the MDNR with regards to the projects that you select. If we get through the 15 and still have time you are welcome to present more for review.

Douglas E. Drouare, CPG USEPA, Region 7, AWMD - STOP 11201 Renner Boulevard Lenexa, Kansas 66219 (913) 551-7299 drouare.douglas@epa.gov

From: PSTIF [mailto:pstif@sprintmail.com]
Sent: Friday, August 05, 2016 9:35 AM

**To:** Drouare, Douglas <drouare.douglas@epa.gov>

Cc: David Walters <dww@willconsult.com>

Subject: RE: 2016 MO Program Review & Next Week's Visit

This responds to your emails of August 1 and 2. I was out of the office Tuesday and Wednesday, so did not have chance to discuss these matters with our Claims Manager until yesterday.

It's our understanding you and your colleagues plan to be here August 9 and 10. You're welcome to arrive at 7:30 or any time thereafter; please use the entrance on the east side of the building. As mentioned, we have two conference rooms, so there will be sufficient workspace for multiple persons.

We do not have time to prepare chronologies for you before next week, and I confess to being confused as to which files you need them for, if DNR has already prepared them for you? If you wish to share the chronologies prepared by DNR, we'll try to review them and add pertinent events/communications.

My Claims Manager and I will make ourselves available as we can during your two-day visit. Depending on what questions you have, we also may engage the environmental claims specialist assigned for each file by telephone. Most of those personnel are in Kansas City or St. Louis, and may be "in the field," so as you noted, some flexibility may be required, but we'll do the best we can.

We have one request of you and your team: In preparation for our discussions, would you please review the claims regulations promulgated by the PSTIF Board of Trustees? Those rules will form the basis of much you will hear us say, so it is imperative you and your colleagues are familiar with them. You can access them here: <a href="http://s1.sos.mo.gov/cmsimages/adrules/csr/current/10csr/10c100-5.pdf">http://s1.sos.mo.gov/cmsimages/adrules/csr/current/10csr/10c100-5.pdf</a>

We will have the nine files you requested available for review; however, some of them involve litigation and/or third-party claims, and review by counsel was not possible with such short notice, so a few documents from those files may not be available next week.

None of the files listed in your email are ones we previously suggested for your review, and your recent email again asked me for suggestions. Did you receive my June 27 email that contained a list of files we recommended for review? Did you review any of those files while at DNR?

I am in the office today and Monday, although I have several appointments. Please call to finalize plans; if I'm not available, Diane can arrange a mutually-agreeable time for us to talk.

Regards,

Carol R. Eighmey
Executive Director
MO Petroleum Storage Tank Insurance Fund
PO Box 836
Jefferson City, MO 65102
573-522-2352

From: Drouare, Douglas [mailto:drouare.douglas@epa.gov]

Sent: Tuesday, August 02, 2016 9:20 AM

To: pstif@sprintmail.com

Cc: Bosch, Raymond; Hayes, Scott; Rosado-Chaparro, Wilfredo; Collins-Allen, Heather

Subject: 2016 MO Program Review & Next Week's Visit

Some additional thoughts and questions...

The MDNR facilitated their file review process by typing up a project timeline summary for each project/file that we reviewed. I have attached an example. They and we believe it helped the parties focus on some specific project issues and expedited the review process. Would PSTIF be willing to do something similar for the fifteen projects we will be looking at next week? Obviously it's a little late to expect something to be available to look at during our visit next week but it is something that could be pursued in the following weeks. We will leave it to the discretion of PSTIF. We can get our job done with or without them.

It has been mentioned previously that project notes are kept in an electronic diary. We are not sure that is the correct term. Is it possible for us to gain access to that electronic diary to facilitate the review process and help us gain a better understanding of project progression?

Of particular interest to us will be the overall progression of site characterization and closure over time, unreasonable lapses/delays in activities and the reasons behind those lapses/delays. We will definitely be focusing on these issues during our review.

Thanks,

Douglas E. Drouare, CPG USEPA, Region 7, AWMD - STOP 11201 Renner Boulevard Lenexa, Kansas 66219 (913) 551-7299 drouare.douglas@epa.gov

#### **PSTIF**

From:

Kaly Erwin <klh@willconsult.com>

Sent:

Tuesday, August 09, 2016 1:08 PM

To:

**PSTIF**; David Walters

Subject:

FW: Dispute transfer due to need for door to door well survey. ST 5208, claim 63393

Attachments:

9433 elevation.JPG; 9601 elevation.JPG > 2 attacks

Here is the last exchange. I have not heard back from her. I am not sure if this is something Landmark needs to submit or if my online research is sufficient. I had set a recall for 8/15 (so two weeks) for her to respond.

Kaly Erwin
Petroleum Storage Tank Insurance Fund
P.O. Box 104116
Jefferson City, MO 65110
Office: 800-765-2765
Cell Phone: 314-402-9586

From: Kaly Erwin

Sent: Monday, August 01, 2016 3:56 PM

To: 'Luther, Laura'

Subject: RE: Dispute transfer due to need for door to door well survey. ST 5208, claim 63393

#### Laura.

Thanks for getting back to me. They have delineated the soil at the site and have tried to investigate for water, but with no groundwater present, that is difficult. I did enter the two locations on an elevation estimation website and it looks like there's about a 20' elevation change between the two parcels (with 5208 being the higher elevation). I am guessing that's where this is all stemming from. See attached.

Kaly Erwin
Petroleum Storage Tank Insurance Fund
P.O. Box 104116
Jefferson City, MO 65110
Office: 800-765-2765

Office: 800-765-2765 Cell Phone: 314-402-9586

From: Luther, Laura [mailto:laura.luther@dnr.mo.gov]

Sent: Monday, August 01, 2016 3:21 PM

To: Kaly Erwin

Subject: RE: Dispute transfer due to need for door to door well survey. ST 5208, claim 63393

Kaly,

I looked through the notes from the closure report. They indicate that contaminated soil was left in the downgradient wall sample above non-residential target levels. This requires the site to complete site characterization for both soil and groundwater. If a site has tried sufficiently to investigate for groundwater or they can show a discharge point that

would explain why there is no water, then I let the site close without investigating and evaluating the risk for the groundwater pathways. It appears they may have tried to investigate for groundwater here. Usually I require the boring to be placed in the tank pit or hottest area and the logs need to show that there is about 20 feet of no PIDs below the contamination and still no water. With this site you can also check the depth to water at the neighboring site and see if the results of this site make sense. Alternatively you can look for a discharge point. Sometimes sites on the top of a hill or near a stream can explain why they have no groundwater based on geology.

#### Thanks,

Laura Luther
Risk Based Corrective Action Unit Chief
Tanks Section
Missouri Department of Natural Resources
(573) 751-6822
laura.luther@dnr.mo.gov

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From: Kaly Erwin [mailto:klh@willconsult.com]

**Sent:** Thursday, July 28, 2016 3:24 PM

To: Luther, Laura

Subject: FW: Dispute transfer due to need for door to door well survey. ST 5208, claim 63393

#### Laura,

I need your assistance in getting this one resolved. In Ken's email below, he agreed the future domestic use pathway issue is no longer a concern. Item 1 in the April 2016 letter (attached) still needs to be resolved and I am not sure you know, but Joy Lueders is no longer with Landmark, so it might be a while before they get around to this issue. So, I am hoping we can hash this out as the current owner has the redevelopment of this property hinging on NFA.

As I see it, since the domestic use pathway is incomplete, no concentrations above table 4-1 were reported in the closure, so no gw evaluation is/was warranted. No groundwater was observed during closure. Piezometers/temporary wells were installed to check for the presence of water, just in case, and none was observed (see Joy's email below) when checked 2x several months apart. So even if a groundwater evaluation had been needed, there was no groundwater present to sample. I agree, it's a bit odd, but there's nothing in the guidance which requires a consultant to explain the absence of groundwater. The soil impact has been delineated and did not show any risk to current/future pathways.

Could you please take a look at this when you get a second and let me know your thoughts?

Kaly Erwin
Petroleum Storage Tank Insurance Fund
P.O. Box 104116
Jefferson City, MO 65110
Office: 800-765-2765

Cell Phone: 314-402-9586

From: Joy K. Lueders [mailto:joy@landmarkea.com]

**Sent:** Tuesday, July 19, 2016 8:57 AM

**To:** Kaly Erwin; David Walters

Subject: RE: Dispute transfer due to need for door to door well survey. ST 5208, claim 63393

Kaly,

We returned about one week later (after the September drilling) to gauge the wells. I checked them prior to the start of the January 2016 drilling and again, no measurable water. They were pulled during January. I concur with your point about this all being moot.

I disagree with Ken's statement about this site having an insufficient domestic use evaluation – I used the same exact argument/language from ST5206, Claim 61093. But it appears that they've resolved that issue.

Thanks, Joy

From: Kaly Erwin [mailto:klh@willconsult.com]

Sent: Monday, July 18, 2016 8:30 AM

To: David Walters < <a href="mailto:dww@willconsult.com">dww@willconsult.com</a>>

Cc: joy@landmarkea.com

Subject: RE: Dispute transfer due to need for door to door well survey. ST 5208, claim 63393

Joy,

Do you have any idea how long the temporary wells were allowed to sit?

Kaly Erwin
Petroleum Storage Tank Insurance Fund
P.O. Box 104116
Jefferson City, MO 65110
Office: 800-765-2765
Cell Phone: 314-402-9586

From: David Walters

Sent: Monday, July 18, 2016 8:02 AM

To: Koon, Ken

Cc: Kaly Erwin; joy@landmarkea.com

Subject: RE: Dispute transfer due to need for door to door well survey. ST 5208, claim 63393

Ken,

Thanks for the additional review. I'll have staff and the consultant check into issue two-lack of water in mw's at the depth noted.

David

From: Koon, Ken [mailto:ken.koon@dnr.mo.gov]

Sent: Friday, July 15, 2016 3:32 PM

To: David Walters < dww@willconsult.com>

Subject: FW: Dispute transfer due to need for door to door well survey. ST 5208, claim 63393

David,

In this submittal, you provided me with one bit of information that had not been provided previously, that we had accepted the pathway as incomplete about 1/10 of a mile down Manchester. I had my staff pull the file for the other site and another site in close proximity and we set down and reviewed all three sites.

While the pathway write-up for this site was insufficient compared to the evaluation write-up at the other sites, the information contained in the reports and that the other two sites were determined to have an incomplete pathway, we can accept that the domestic use pathway is incomplete at ST5208.

That resolves one of the two issues in the April 2016 letter. The second issue had to do with a question of why they have found no groundwater in their monitoring wells from 19.5 to 30.5 feet. My staff tells me that is not normal for sites in this part of St. Louis County. Have they checked the wells more than once? There may be groundwater there now. We need more information answering our question in the April letter before we can determine what the next step will be.

Thanks

Ken Koon Tanks Section Chief Hazardous Waste Program 573-526-0971 Ken.koon@dnr.mo.gov

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From: David Walters [mailto:dww@willconsult.com]

**Sent:** Wednesday, July 13, 2016 12:52 PM

To: Koon, Ken

Cc: PSTIF Office; joy@landmarkea.com

Subject: Dispute transfer due to need for door to door well survey. ST 5208, claim 63393

### Ken,

**Staff believes** -- the guidance does NOT "require" the door to door well search if there are no pre-reg wells in the area. As a matter of fact, MDNR accepted the pathway as incomplete about 1/10 of a mile down Manchester at claim 61093 (see attached). This is ST 5206.

I spoke to a Mike Leyeos today and he has a building project on this location on hold with a tenant coming into the building in December of 2016 (once built).

Also today during our quarterly DEQ/PSTIF meeting it came up Carol and Aaron wanted to ensure that when a dispute resolution file got transferred to them, there was a trigger. So please notify Aaron. Carol is c.c.d above.

If possible this one needs to go the top of their stack due to real estate issues. I will send Carol our formal transfer today.

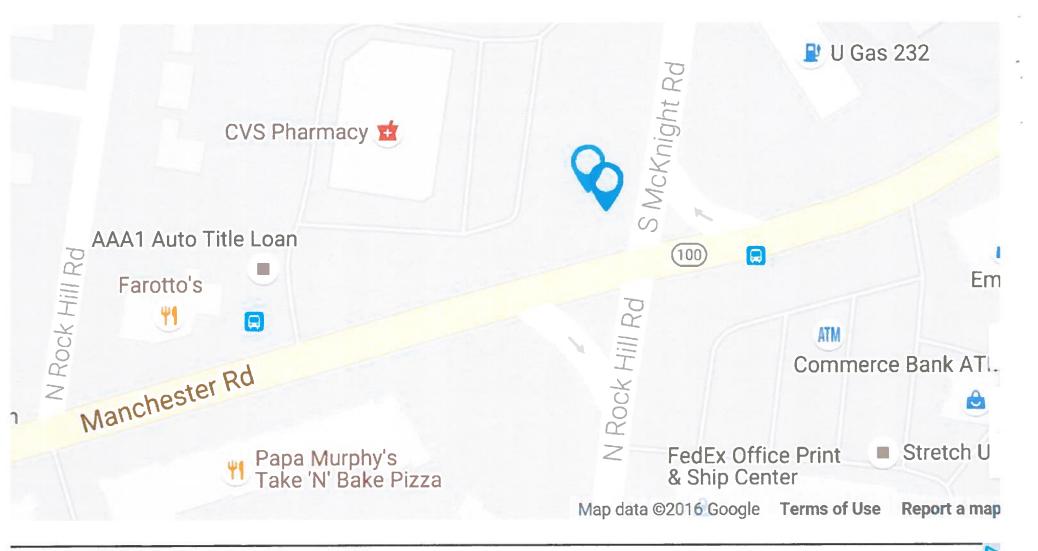
David

**Subject:** Claim 63393. DWW/KK meeting summary of 6-24-16 with KK's comments in black below. My comments premeeting in red.

1. R8937, ST5208, Manchester Conoco – Weight of evidence issues

One of the things I brought up previously with Aaron and David L (hopefully in a positive manner) that I thought would speed up the NFA process, was better understanding by your staff what "weight of evidence" means. This seems to be an example of that issue. Please review and make your own decision.

Part of the weight of evidence for this site is that there are no wells in the area based on GeoStrat. Geostrat does not have data about pre-reg domestic wells in it. Therefore, if they want to use "no wells" as part of the weight of evidence, then they need to verify that is true. The door to door survey is required to verify there are no pre-regulation wells in the vicinity of the site. You agreed to discuss with the adjuster for this site.





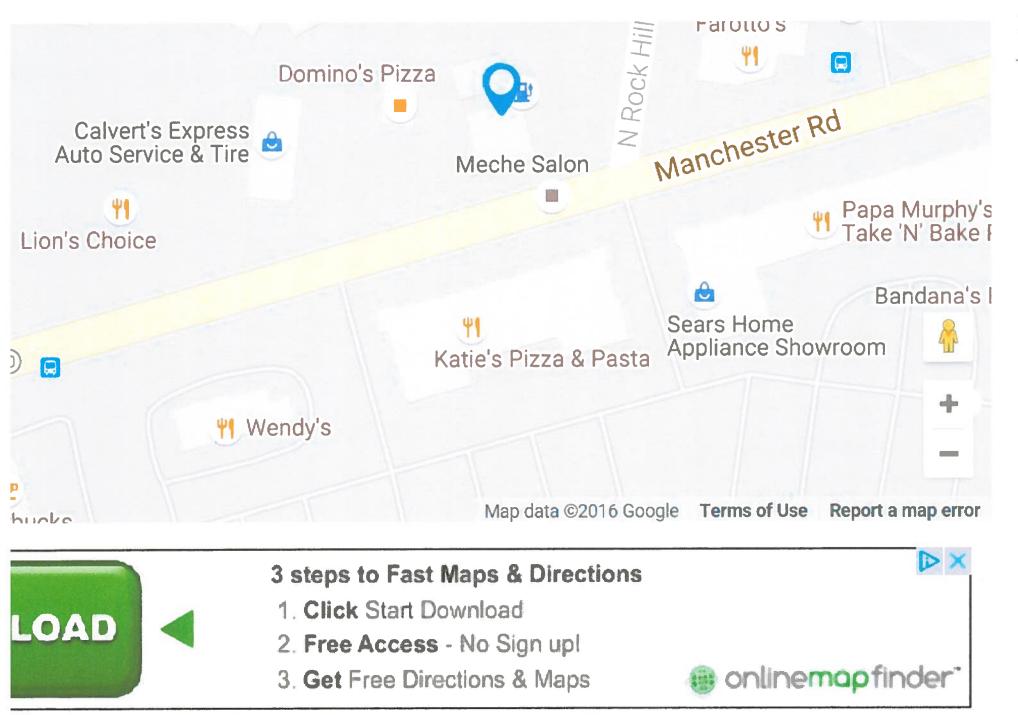


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155.488 m or 510.130 feet Location :38.60964749,-90.36368099999998

it the latitude and longitude of a point on the left map and see the estimated elevation.



161.349 m or 529.362 feet Location :38.609251,-90.3658300000001

2 - 2

### Drouare, Douglas

From:

Sturgess, Steve <steve.sturgess@dnr.mo.gov>

Sent:

Wednesday, August 10, 2016 5:03 PM

To:

Drouare, Douglas

Cc:

Bosch, Raymond; Hayes, Scott; Tippett Mosby, Leanne; Schmidt, Aaron;

ken.koon@dnr.mo.gov; Luther, Laura

Subject: Attachments: Work process review of MDNR and PSTIF

Draft RFP from CRE 05-12-10 v.3.doc

Hello Doug,

In light of yesterday's discussion, we believe EPA should be made aware that, in 2010, MDNR attempted to work together with PSTIF to hire an external management consultant to conduct a work process review of MDNR and PSTIF, with the goal of identifying areas of improvement. We did this because we were amenable to having problem areas identified so that we could make improvements. But also because we had raised concerns with PSTIF's work practices and thought a joint review (given our inextricably linked roles) was imperative.

Below is an old email string between Leanne Tippett Mosby and Carol Eighmey. In short, PSTIF was interested in such a review as long as it was limited solely to looking at MDNR. Once Leanne insisted that it also encompass PSTIF, PSTIF backed away from funding the idea. It's not reflected in the email string, but the idea "died" when it wasn't acted upon by the PSTIF Board.

The department nonetheless took several actions to improve work processes after this effort failed, including working on the Backlog Plan. We continue to be open to making additional improvements.

Please let me know if you have any questions or would like additional information.

Thanks.

Steve Sturgess, Director
Hazardous Waste Program
Missouri Department of Natural Resources
P.O. Box 176, Jefferson City, MO 65102
(573) 751-1187

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From: Tippett Mosby, Leanne

**Sent:** Friday, June 04, 2010 3:23 PM

To: PSTIF Office

Subject: RE: Scope of Services v. 3

Carol,

I will give you a call in a little bit as I am putting out a fire at the moment. Just a quick note, however, to let you know I was not trying to indicate that PSTIF has any management issues -- I apologize if I didn't make that clear. My primary goal for a more comprehensive review is that there are obvious areas of disagreement between the department and PSTIF. I was hoping this would be a way we could help resolve those and in turn, that could feed in to the RBCA rules issues we need to resolve. Let's talk more . . . but I just wanted to clear that up.

Leanne

From: PSTIF [mailto:pstif@sprintmail.com]
Sent: Friday, June 04, 2010 1:22 PM

To: Tippett Mosby, Leanne

**Subject:** RE: Scope of Services v. 3

Importance: High

Thanks, Leanne. I have done a *very* quick and cursory review, focusing only on the items you inserted and the comments; see attached.

If you have time, please call me this afternoon. There seems to be a fundamental misunderstanding between us on what the purpose of the project is.

I am not aware of any problems involving "process" or "management" or "work flow" in my office. Neither you nor anyone else has brought any such problems to my attention nor has anyone given me any examples of poor communications, or inefficient work, or unproductive activities, or inconsistent decision-making, or slow response by the PSTIF. On the other hand, I have given you multiple examples of these types of problems in the Tanks Section.

Therefore, it was my understanding that the Department is hiring a management consultant to help you identify and fix problems in the Tanks Section. While it will be important for the consultant to understand what the PSTIF is and how our work is affected by and affects DNR's work, and while I would certainly listen to any observations or suggestions the consultant might wish to offer regarding improvements in how we do our job, that is not the purpose of the project as I understand it.

There is another factor in play that relates to this — We are in the process of rebidding our TPA contract. Whether Williams & Company is the successful bidder or we hire a different firm, it is likely that — as a result of the contract bid process — there will be some changes in some of our internal procedures. Those changes will occur outside the scope of this management analysis being conducted for the Department.

I don't mean to sound rude or critical in this email... Am simply trying to communicate my thoughts as clearly as possible. Again, if you have time, please call me. I much prefer person-to-person conversation over email dialogue.

Thanks,

Carol

**From:** Tippett Mosby, Leanne [mailto:Leanne.TippettMosby@dnr.mo.gov]

**Sent:** Friday, June 04, 2010 12:39 PM

**To:** PSTIF Office

**Subject:** Scope of Services v. 3

Hi Carol,

Betsy let me know you called. I'm supposed to be off work today, but have been trying to tie up loose ends before I leave. This is one of the things I had been working on this morning, along with several budget issues we are dealing with that I am sure you can relate to.

After careful consideration and discussions with staff, I am offering this counter to the last revision you made to the document.

I worked from the last version you sent to me and used track changes so you can see where I made changes.

- First, I would like to thank you for adding in the last part with the Timing and Payment, that was very helpful!
- Second, for the parts that were specifically about PSTIF, I accepted the changes you provided -- thanks again!

In addition, I added back in some of the items you had taken out, which again, you should be able to easily see due to the tracked changes. Overall, you will see the substantive items I have added back in have to do with the scope of the review. Given the fact that the Department's tanks efforts and PSTIF are inextricably linked, I feel it will be much more helpful to have a more comprehensive review. Along those lines, you will note I added PSTIF's process back in to the mix.

While a process review of the Department's Tanks-related efforts could be beneficial, I was hoping to get more out of this effort. My goal for this process would be that it help to lead us down the path toward resolving our differences on the Tanks RBCA issues. To me, they seem inseparable really. Although I'm rather new to all of this, what I have picked up on is the fundamental differences between the Department and PSTIF are when is something considered "cleaned up," when are we "done" at a site, and what is appropriate in terms of long term stewardship for the sites where contamination is left in place. Although a process review expert is not going to be able to answer these questions from a technical perspective, such an objective view may at least send us in a direction of resolving some of the impasses we seemed to have reached by offering recommendations for a process to lead us through the disagreements.

I noticed you removed the 2004 MRBCA Guideline and Flow Chart. I added that back in, but with the caveat that the consultant would not be expected to read it in its entirety, but it would rather serve as a reference.

I will be out of the office most of next week -- out of pocket (hopefully floating down a river somewhere) on Monday and Tuesday. I will be in St. Louis at a conference on Wednesday and Thursday -- so I will be reachable.

Look forward to hearing from you, and sorry it has taken me some time. As you might expect, we have been quite busy with budget-related discussions given the failure of our water fees. However, this is a very important issue too, and I hope to get it underway soon.

Thanks,

Leanne

### **Request for Services**

### Missouri Department of Natural Resources Petroleum Storage Tank Insurance Fund May 12, 2010

### Solicitation

The Missouri Department of Natural Resources (the Department), in partnership with the Petroleum Storage Tank Insurance Fund (PSTIF), seeks to engage the services of a consultant to review and provide recommendations on management and process improvements related to Tanks<sup>1</sup> related work in the state of Missouri. The review shall be conducted with the following goals in mind:

- Ensuring environmental and public health protection while maximizing beneficial re-use of contaminated tanks sites;
- Accelerating the pace of cleanups;
- Improving customer service;
- Streamlining processes and increasing efficiency of the Tanks work conducted by the Department; and,
- Enhancing the working relationship between the Department and the PSTIF.

Interested parties shall provide a written proposal to Leanne Tippett Mosby, Missouri Department of Natural Resources – Division of Environmental Quality, P.O. Box 176, Jefferson City, MO 65102 or by email at leanne.tippett.mosby@dnr.mo.gov.

In order to be considered, proposals must be received no later than May 28\_\_\_\_\_\_, 2010, 5 p.m. Central Time.

### Background

Responsibilities of the Missouri Department of Natural Resources – Tanks-Related Work
Tanks present a potential risk to human health and the environment if they are improperly
operated or if tank integrity is compromised resulting in a release of petroleum products to the
environment. Petroleum products contain numerous harmful chemicals, including known human
carcinogens. Because Tanks are ubiquitous, they pose a significant risk to public health and the
environment. When petroleum products are released into the environment, they can cause soil
contamination, ground or surface water contamination, or increased levels of volatile organic
compounds (some carcinogenic) in nearby structures.

<sup>&</sup>lt;sup>1</sup> For purposes of this Request for Services, "Tanks related-work" refers to regulatory activities undertaken by the Missouri Department of Natural Resources and the Petroleum Storage Tank Insurance Fund with regard to operating tanks and contaminated tank sites requiring site characterization and/or remediation. For operating tanks, the Department has responsibilities for underground tanks containing petroleum products and other hazardous substances. For above-ground tanks, the Department has responsibility for releases only. The Missouri Department of Agriculture has responsibility over operating ASTs. For purposes of this review, the focus will be on the Tanks related-work common to both the Department and PSTIF, i.e., regulation of operating underground tanks containing petroleum products and releases of petroleum products from both underground and above-ground tanks.

The goal of the tanks-related work is to protect human health and the environment by building conditions under which good management of Tank systems is common business practice and ensuring prompt and effective response and cleanup by responsible parties when petroleum releases from tanks occur or are discovered.

In 1984, Congress established a regulatory program for underground storage tanks, which was subsequently implemented by the fifty states. The Missouri law governing underground storage tank systems was enacted in 1989 and is found in Chapter 319.100-139, RSMo. The Department of Natural Resource's tanks-related work is housed in the Hazardous Waste Management Program, with ancillary activities conducted by personnel in the Environmental Services Program and the Department's Division of Geology and Land Survey.

The Department's tanks-related work includes:

- 1) Registering and regulating operating underground storage tanks;
- 2) Overseeing cleanup of properties impacted by leaks/spills from underground or aboveground tank systems, including assessing alternative technologies used in Tank site cleanup efforts;
- Assuring proper closure of underground storage tanks when they are taken out of use, including assessment to determine whether there has been environmental impact and, if so, cleanup of same;
- 4) Providing general and technical information concerning installation and closure of underground storage tanks;
- 5) Ensuring compliance with performance standards;
- 4)6) Overseeing installation of new USTs;
- 5)7) Inspecting operating USTs for compliance with state regulations; and,
- 6)8) Developing regulations for promulgation by the Hazardous Waste Management Commission.

Since the Department began its tanks-related work in 1990, nearly 30,500 underground tanks at approximately 10,000 sites have been taken out of service and 5,751 tank site cleanups have been completed. Today, there are approximately 9,575 underground tanks in use, whose operation is regulated by the Department, and 1,279 sites known to be contaminated from prior petroleum UST or AST operations. The primary focus of this project relates to items 2 and 3 above.

Responsibilities of the Petroleum Storage Tank Insurance Fund -- The Petroleum Storage Tank Insurance Fund is a special state trust fund that insures owners/operators of operating USTs and ASTs and reimburses tank owners/operators and property owners for cleanup of petroleum releases. It is a separate agency from the DNR and is governed by a Board of Trustees. Additional information about the PSTIF is available at www.pstif.org

The PSTIF Board employs an Executive Director and contracts with a private company, Williams & Company Consulting, Inc., for Third Party Administration services. These services include receiving and processing notices of claims, pre-approving costs for site characterization, risk assessment and corrective action, observing and documenting these activities as they are done at tank sites, and reviewing/reimbursing the costs for those activities.

Both the DNR and the PSTIF offices and staff are located in Jefferson City, Missouri.

### Challenges

The primary goal of the Department is to ensure protection of human health and the environment by cleaning up contamination from USTs or, in the event it is not technically or economically feasible to do so, ensure human exposure is prevented in perpetuity [limi]. The Department's primary mission is to protect human health and the environment by assuring that the owner/operators of tanks promptly and properly clean up leaks/spills from their tank systems. PSTIF's primary mission is to provide funds for owners/operators to do this.

The two agencies share the goal of timely remediation of sites and returning sites to productive use. However, their different perspectives sometimes cause conflict.

The 1,279 sites known to be contaminated from prior petroleum UST or AST releases are in various stages of site characterization, risk assessment and corrective action. The timeframe for a tank site cleanup can vary considerably based on the extent of contamination, soil type, potential for human exposure, site features, and geology; many of the 1,279 files have been open for 5 years or more.

Both the Department and the PSTIF receive a large amount of tanks-related correspondence, plans, and reports associated with tank site cleanups. The Department is charged with reviewing and approving these plans to ensure they are adequate to meet the goals of the activity in question.

### Activities Required of the Consultant

The following are specific required tasks to be included in this effort:

- Evaluate the structure of and processes utilized in the Department's tanks-related work;
- Evaluate how the DNR and the PSTIF interact;
- Evaluate management control and oversight of the Department's <u>and PSTIF's</u> tanks-related work;
- Evaluate systems for monitoring and tracking cleanup progress;
- Evaluate systems for tracking and responding to incoming mail, owner/operator responses, and related communications;
- Evaluate systems for triggering effective regulatory action to assure timely actions by parties responsible for addressing contaminated sites;
- Interview (in person) Department Tanks staff, PSTIF staff, and Williams and Company staff to gain an understanding of their differing perspectives and to solicit ideas for process improvements;
- Review and evaluate procedures, controls and training that insure quality and consistency among DNR and PSTIF staff who administer the rules and guidelines governing tank site cleanups;
- Interview a sampling of environmental consultants and Tank owners; (The Department will provide a list of external customers, not to exceed ten persons, for interview. These interviews may be conducted by telephone.);

- Identify key areas of disagreement between the agencies and suggest a method for resolving these differences;
- Identify methods for improving the working relationship between the DNR and the PSTIF; and
- Identify opportunities for streamlining processes and improving work flow with the overall goal of timely, effective, and protective Tank site cleanups.

### Work Product

- The consultant will provide a written report that addresses the issues identified above and includes specific recommendations, including:
  - 1. Recommendations for improving process flow between the Department and PSTIF;
  - 2. Recommendations for improving customer service;
  - 3. Recommendations for improving efficiency, effectiveness and productivity of the two agencies; and,
  - 1.4.Key areas of conflict and suggestions for resolution or suggestions for a process for resolution.
- The consultant will also schedule ½ day to meet with designated representatives, (as determined by the Department), to discuss the findings and recommendations.

### Timing and Payment

The consultant shall begin work within thirty days of engagement, and shall include a schedule for completing this project in his/her proposal. The schedule shall include no more than sixty days from project initiation to providing a draft written report.

Proposals also shall specify who will conduct the various activities described herein, including a resume and/or description of experience and qualifications, the hourly rate to be charged for such person's services, and the estimated number of hours to complete the project. Proposals must include a "not to exceed" maximum cost for completion of the project. Travel costs, if any, will be paid according to state travel regulations, which currently include a mileage rate of \$0.37/mile for vehicle use.

No more than two invoices shall be submitted for payment; each shall include a description of the activities completed, the hours and hourly rate. The first may be submitted when the interviews and analysis has been completed and a draft report provided; the second may be submitted when all work has been completed. Invoices shall be submitted to: Leanne Tippett Mosby, Missouri Department of Natural Resources – Division of Environmental Quality, P.O. Box 176, Jefferson City, MO 65102 or by email at leanne.tippett.mosby@dnr.mo.gov.

### **Appendices**

Underground and Petroleum Storage Tanks Law http://www.moga.mo.gov/STATUTES/C319.HTM (319.100 through 319.139, RSMo)

Underground Storage Tank State Regulations http://sos.mo.gov/adrules/csr/current/10csr/10csr.asp (Division 20, Chapters 10-13)

PSTIF regulations http://www.pstif.org/regulations.html

Department Hazardous Waste Program, Tanks Section and Enforcement Section Organization charts

PSTIF organizational chart and list of contract employees

Missouri Risk-Based Corrective Action Guideline and Flow Chart (Final Draft – February 24, 2004. \*NOTE: This is a voluminous document and it is not expected the consultant will read it in its entirety. It is provided for reference. The Department will provide an overview of the document for the consultant to provide the level of understanding necessary for a thorough evaluation required by this scope of services.

Tanks 101 (general overview of the Department's Tanks related work)

### **Drouare, Douglas**

From:

Koon, Ken <ken.koon@dnr.mo.gov>

Sent:

Wednesday, August 10, 2016 12:38 PM

To: Cc: Drouare, Douglas Sturgess, Steve Tanks experience

Subject: Attachments:

Tanks Experience.doc

Categories:

EZ Record - Shared

One of the things Carol handed out yesterday was the experience her staff (Williams and Company) possessed and she also in other parts of the conversation eluded to the fact that my staff did not know how to do their jobs.

I will not set here and tell you the same about Williams and Company staff, we believe that most of them are well experienced and know the job and process. I many times have indicated to you and Carol, that if left alone these qualified individuals and my very qualified staff would be able to work through most of these issues. I believe, contrary to the PSTIF opinion put forth yesterday, that my staff are empowered to make the decision to move these sites forward, without checking with me. I do not believe Williams and Company staff are playing with the same playbook.

This is not to say that my staff could not benefit from some more qualified positions doing the work, such as registered geologists, registered engineers, hydrologists, soil scientists, etc. And who among us is perfect and does not benefit from training to learn new things or "sharpen our saw" of knowledge. While the Tanks Section does not have but one of these individuals, we reach out to other qualified staff when needed to help with a review of a technology or complicated site. We would however, welcome an additional number of these type of staff here in the Section and agree it would help eliminate the delays caused by reaching out to other Programs in the Department.

Attached please find a list of my staff and their experience. I believe that between this and interviews you had with them, you will agree that they are well qualified to do the work asked of them.

Ken Koon Tanks Section Chief Hazardous Waste Program 573-526-0971 Ken.koon@dnr.mo.gov

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An environmental professional is defined as someone who possesses sufficient specific education, training, and experience necessary to exercise professional judgment to develop opinions and conclusions regarding conditions indicative of releases or threatened releases of hazardous substances on, at, in, or to a property, sufficient to meet the objectives and performance factors of the rule. In addition, an environmental professional must have:

A state or tribal issued certification or license and three years of relevant full-time work experience; or

A Baccalaureate degree or higher in science or engineering and five years of relevant full-time work experience; or

Ten years of relevant full-time work experience.

Individual	Designation	Degree	Years of experience – private/local govt	Years of experience – state	Environmental professional
Ken Koon	Env. Mgr.	Bachelors and Masters Degree in Biology (emphasis in environmental Studies)	7 at environmental laboratory	18 years oversight of environmental projects and programs	Yes
Laura Luther	ESIV Supervisor	Bachelors in Chemistry	11 years at an environmental laboratory (5 in management)	12 years oversight of environmental projects and programs	Yes
Valerie Garrett	Environmental Scientist	Bachelors in Wildlife Management	I year private company	31.5 years oversight of environmental programs and management (held wastewater operator and solid waste technician certificates)	Yes
Chris Veit	ESIV Supervisor	Bachelors in Agriculture/Natural Resources	11 years environmental work with University	14.5 years oversight of environmental projects and programs	Yes
Rick Brown	ESIII	Bachelors in Industrial Management, Bachelors in Marketing, Bachelors in Finance/General Business	3 years with public water supply district	15.5 years oversight of environmental projects and programs	Yes
Abby Schultz	ESII	Bachelors in Fisheries and Wildlife Masters in Biology	4 years Conservation Department, consulting	1.5 years oversight of environmental projects and programs	Yes

			companies, National Park Service		
Dan Scollan	ESIII	Masters of Science in Forestry Bachelors of Science in Environmental Science	3 years with US Fish and Wildlife Service	5 years with Department of Natural Resources	Yes
Teresa Bullock	ESIII	Bachelor of Natural Resources		7 years with the Department of Natural Resources	Yes
Hashim Mukhtar	ESIII	Bachelors in Agriculture, Masters in Range Science	14 years as Research Scientist	19.5 years oversight of environmental projects and programs	Yes
Matt Alhalabi	EE I/II	Bachelor in Chemical Engineering	2 years environmental experience	19 years oversight of environmental projects and programs	Yes
Dave Walchshauser	ESIII	Bachelors in Geography (Environmental Science and Resource Management	11 years for City of St. Louis in hazardous waste and solid waste (IEPA certified)	15.5 years oversight of environmental projects and programs	Yes
Vickie Olive	ESIII	Bachelors in Natural Resources Management	5 years with code enforcement	13.5 years oversight of environmental projects and programs	Yes
Vince Henry	ESIII	Bachelor in Forest Management	10 year in forest management	8.5 year oversight of environmental projects and programs	Yes
Justin Buckler	ESII	Masters of Fisheries and Wildlife Bachelor in Biological Sciences	9 years Environmental Science Lab	3.5 years with Department of Natural Resources	Yes
Steve Lang	EEIII	Bachelor in Chemical Engineering, Professional Engineer	1 year in Environmental work with API	16 years with the Department of Natural Resources	Yes
Jeff Kuttenkuler	ESIII	6 years education in Chemistry and Chemical Engineering		15 years oversight of environmental projects and programs	Yes

Additionally, the Tanks Section Utilizes Glen Young and Carey Bridges, Registered Geologists (DGLS), and Christine Kump (Permits), a Professional Engineer, to advise us on complex issues involving groundwater, bedrock, etc.

From:

Sturgess, Steve <steve.sturgess@dnr.mo.gov>

Sent:

Thursday, August 11, 2016 10:06 AM

To:

Drouare, Douglas; Hayes, Scott

Subject:

FW: Cleanups

Attachments:

20160811082255551.pdf; ATT00001.htm

fyi

Steve Sturgess, Director Hazardous Waste Program Missouri Department of Natural Resources P.O. Box 176, Jefferson City, MO 65102 (573) 751-1187

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From: "PSTIF" <pstif@sprintmail.com>

To: "Danny Opie" < dannyopie@opiestransport.com >, "Don McNutt"

<don@midwestpetro.com>, "James Greer" <jgreer@mfaoil.com>, "'Jim Ford'"

<iford@theinsurancegrp.com</pre>>, "Albert, John" <<u>John.Albert@mda.mo.gov</u>>,

"Paulsmeyer, Kristen" < Kristen.Paulsmeyer@oa.mo.gov >, "Miller, Marty"

<marty.miller@dnr.mo.gov>, "Schuyler (Ski) J. Mariea" <smariea@midambk.com>,

"Thomas J. Pfeiffer" < tofeiffer08@yahoo.com >, "Tom Kolb" < tofeiffer < tofei

Cc: "David Walters" < dww@willconsult.com>

Subject: Cleanups

As part of its periodic audit of various components of Missouri's UST program, three Region 7 EPA staff members spent the last two days in our office, reviewing files and conversing with Dave Walters and me. Before they left yesterday afternoon, the EPA staff indicated they now have a much better understanding of the PSTIF, what we do, how we do it, and why we do it. I also believe the dialogue has been very constructive, and we've expressed our appreciation to EPA for engaging in discussions with us and reviewing our operations, as that has not previously been done during their program reviews.

In advance of their trip, EPA had asked us to be prepared to tell them what we believe are the major impediments to getting files closed. I did not want to have that conversation without DNR present, so invited Steve Sturgess to the meeting; Ken Koon attended with him. Don McNutt and Tom Kolb also graciously agreed to take time out of their schedules to attend.

Attached is the outline we used for that conversation. At the end of the meeting, I again asked Mr. Sturgess to let me know when he's available and ready to discuss this issue. He again indicated he would do so.

While the exchange of perspectives by DNR and PSTIF has not been accomplished in the manner I would have chosen, I am hopeful it can provide the basis for constructive dialogue and decisions that will result in a better tank site cleanup program for Missourians. That remains our objective.

Feel free to call if you have questions.

Carol

From: Sturgess, Steve <steve.sturgess@dnr.mo.gov>

Sent: Thursday, August 18, 2016 3:44 PM

To: Drouare, Douglas; Hayes, Scott; Bosch, Raymond

Subject: FW: Cleanups

**Attachments:** 20160811082255551.pdf; ATT00001.htm

FYI

Steve Sturgess, Director
Hazardous Waste Program
Missouri Department of Natural Resources
P.O. Box 176, Jefferson City, MO 65102
(573) 751-1187

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From: Sturgess, Steve

Sent: Thursday, August 18, 2016 3:25 PM

To: PSTIF Office

**Cc:** 'dannyopie@opiestransport.com'; 'don@midwestpetro.com'; 'jgreer@mfaoil.com'; 'jford@theinsurancegrp.com'; Albert, John; Paulsmeyer, Kristen; Miller, Marty; 'smariea@midambk.com'; 'tpfeiffer08@yahoo.com'; 'tgkolb@jcoil.com';

'dww@willconsult.com'; Tippett Mosby, Leanne; Schmidt, Aaron; Koon, Ken; Luther, Laura

**Subject:** FW: Cleanups

#### Carol,

I note in your message below (forwarded by Marty) that you are waiting on me to arrange the meeting you requested at the conclusion of my presentation to the PSTIF board on July 20. Although the department is always willing to meet, upon further consideration, we see little value in this proposed meeting. On Tuesday, August 9, you spent an hour giving a detailed presentation, complete with anecdotes regarding unnamed sites, which portrayed the Tanks Section as essentially incompetent and dysfunctional to two PSTIF board members, EPA staff, Ken Koon and me. When I asked if you agree with any of the points in the department's presentation, your only response was that you agree with some of our ideas for improvement and that consultants can be an impediment to cleanups. In other words, all problems are the result of MDNR, and there are no problems with PSTIF. The department acknowledges that it has areas that could bear improvement. But given your inability to admit any fault, whatsoever, it is apparent that this meeting would (once again) be a one-sided affair solely intended to effect changes in MDNR, and none in PSTIF. We recommend that you take a fresh look at the assertions in our presentation and discuss it with your staff, consultants and others. Perhaps you will determine that indeed PSTIF has its own issues and that we can begin working together to make improvements in both of our organizations, with the goal of improving the tanks cleanup process in Missouri for the betterment of Missouri's citizens.

That said, we offer a different approach. Given the heightened level of acrimony at present, perhaps a neutral third party should be brought in to conduct an independent evaluation of our agencies, with the goal of identifying work process efficiencies. I'm aware that there was discussion about hiring such a management consulting firm in 2010, but that the idea effectively died after the department insisted that PSTIF be included in the study. We recommend that this idea be resurrected, and that a top-quality management consulting firm be hired to perform a review of both MDNR and PSTIF. This would involve confidential discussions with

managers, supervisors, line staff, contract employees, and tanks contractors, at a minimum. Further, for this to work, we insist that a neutral party select the consultant. Our recommendation is that the state Office of Administration handle the procurement process with minimal or no input by our respective agencies.

So, in lieu of the meeting you requested, we instead recommend meeting to discuss procuring a management consultant, and how both of our agencies will respond to the conclusions and recommendations of the consultant's report. It is our hope that you and the board will support this endeavor. In the meantime, I will continue my own efforts to identify problem areas and make improvements with the Tanks Section.

Please be aware that everything in this message represents the viewpoints of the division management.

Steve Sturgess, Director Hazardous Waste Program Missouri Department of Natural Resources P.O. Box 176, Jefferson City, MO 65102 (573) 751-1187

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From: Miller, Marty

Sent: Thursday, August 11, 2016 9:43 AM

To: Pauley, Sara; Tippett Mosby, Leanne; Schmidt, Aaron; Willoh, Don; Sampsell, Todd; Sturgess, Steve; Koon, Ken;

Wallace, Ginny

Subject: Fwd: Cleanups

FYI

Sent from my iPhone

Marty Miller
Acting General Counsel
Missouri Department of Natural Resources
(573) 751-0323
(573) 526-3444 (fax)

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accessing your computer or my computer or even some computer unconnected to either of us which the e-mail passed through. I am communicating to you via e-mail because you have consented to receive communications via this medium. If you change your mind and want future communications to be sent in a different fashion, please let me know AT ONCE.

Begin forwarded message:

From: "PSTIF" <pstif@sprintmail.com>

To: "Danny Opie" < dannyopie@opiestransport.com >, "Don McNutt"

<don@midwestpetro.com>, "James Greer" <jgreer@mfaoil.com>, "'Jim Ford'"

<iford@theinsurancegrp.com>, "Albert, John" < John.Albert@mda.mo.gov>,

"Paulsmeyer, Kristen" < Kristen.Paulsmeyer@oa.mo.gov >, "Miller, Marty"

<marty.miller@dnr.mo.gov>, "Schuyler (Ski) J. Mariea" <smariea@midambk.com>,

"Thomas J. Pfeiffer" <tpfeiffer08@yahoo.com>, "Tom Kolb" <tgkolb@jcoil.com>

Cc: "David Walters" < dww@willconsult.com>

**Subject: Cleanups** 

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Feel free to call if you have questions.

Carol

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# Notes – Meeting with DNR and EPA 8/9/16

What do we see as the primary impediments to getting tank site cleanups completed in a timely manner?

- I. Lack of understanding/acceptance of the distinct roles and responsibilities of DNR, PSTIF, owners, and consultants.
- II. Lack of communication and/or poor communication by the DNR Tanks Section.
- III. Lack of technical competence in the DNR Tanks Section.
- IV. Lack of leadership to set goals and hold DNR staff accountable.
- V. Lack of thoughtful and timely follow-up by DNR to compel action when there is a legally-responsible party.
- VI. Lack of desire by the DNR to close files and lack of incentive to do so.

- I. Lack of understanding/acceptance of the distinct roles and responsibilities of DNR, PSTIF, owners, and consultants.
  - A. What standards must be met DNR. By law, must be risk-based. DNR responsible for reviewing results to make sure standards are met and compelling action if it is not being taken in a timely manner.
  - B. <u>How</u> to meet them owner and consultant. Owner is responsible party. Consultant is project manager.
  - C. Whether and how much to pay PSTIF
  - D. See 10 CSR 100-5.010(8)-(9).
  - E. PSTIF is responsible for owner's civil liability to third parties. DNR is not.
  - F. Other parties have rights and reasons to collect information and authority to collect data or conduct activities on their properties.

- II. Lack of communication and/or poor communication by the DNR Tanks Section.
  - A. DNR's Tanks Section Chief, Program Director, and Deputy Division Director have been repeatedly invited to contact us any time they or their staff believe PSTIF staff were impeding progress; have not done so.
  - B. Many letters issued by Tanks Section fail to clearly state whether the DNR agrees or disagrees with consultant's conclusions, or what standard the consultant has not met.
  - C. DNR staff rarely visit sites, rarely initiate dialogue with PSTIF adjusters, and often do not include PSTIF in their dialogue with owners/consultants.

## III. Lack of technical competence in Tanks Section

- A. Do not understand fundamental concepts of risk-based decisionmaking, fate and transport physics. Not familiar with research on fate and transport of petroleum hydrocarbons in environment.
- B. Do not have educational background appropriate for evaluating conclusions reached by professional engineers and geologists.
- C. Linear, rather than global, approach. Too much "piecemeal."
- D. Neither empowered nor encouraged to make professional judgments.
- E. Require actions beyond what is required by law and rules.
- F. Conclusions reached and agreed to on one site are not acknowledged while reviewing reports for nearby property in same geological setting.
- G. In earlier years of program, LUST Unit made decisions based on technical data and known science. Now, DNR assumes "guilty until proven innocent." I.e., Prove it's *not* impacted. Prove it's *not* a risk.
- H. Conclusions reached and agreed to years ago on a file are questioned or reversed by current staff. Or prior reports are not reviewed; instead, ask taxpayers to pay for producing the information again.
- I. Different expectations and requirements imposed when PSTIF is paying than when private party is paying.

- IV. Lack of leadership to set goals and hold DNR staff accountable.
  - A. PSTIF initiated multiple efforts over the last 8 years to "decrease the backlog:"
    - i. "Triad" approach to site characterization
    - ii. "Expedited files"
    - iii. Monthly DNR/PSTIF Coordination meetings (Clms Mgr and Tks Sec Chief)
    - iv. Bimonthly coordination meetings w/ DNR prog dir & deputy division director
    - v. Lunch meeting with DNR to clarify roles
    - vi. Backlog Plan
    - vii. Training for consultants
    - viii. Visits to consulting firms that do large # of tank sites
    - ix. Identify and code "abandoned" files
    - x. Identify and monitor "low hanging fruit" files
    - xi. Identified and invited DNR and consultants to confer on how to close the "List of 27" (very old remedial claims at operating tank sites where there is little/no risk).
    - xii. Invited DNR to collaborate on "how to" bulletin for free product recovery "to extent practicable"
    - xiii. Asked DNR to collaborate on engaging outside expert to resolve "plume stability" problems
    - xiv. Repeatedly urged DNR to increase site visits
    - xv. Initiated efforts to improve communications with consultant, PSTIF adjuster and DNR Tanks Section file manager
    - xvi. Asked DNR to implement a "dispute resolution" process

What efforts or proposals has DNR initiated with PSTIF?

- B. No "response time" expectations.
- C. Attitude problems, lack of professionalism, and inconsistent treatment of property owners.

- V. Lack of thoughtful and timely follow-up by DNR to compel cleanups when there is a legally-responsible party.
  - A. No expectations or goals; no accountability for results
  - B. No prioritization of compliance/enforcement actions
  - C. No accountability for compliance/enforcement
- VI. Lack of desire by the DNR to close files. Multiple disincentives for doing so.

From:

Sturgess, Steve <steve.sturgess@dnr.mo.gov>

Sent:

Wednesday, September 07, 2016 2:01 PM

To:

ken.koon@dnr.mo.gov; Drouare, Douglas; Luther, Laura

Subject:

RE: Update

Attachments:

**RE:** Communications

Categories:

EZ Record - Shared

Thanks Laura.

Doug, attached are subsequent emails with the subject line "Communications."

Steve Sturgess, Director
Hazardous Waste Program
Missouri Department of Natural Resources
P.O. Box 176, Jefferson City, MO 65102
(573) 751-1187

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From: Luther, Laura

**Sent:** Wednesday, September 07, 2016 1:39 PM **To:** Sturgess, Steve; Koon, Ken; 'Drouare, Douglas'

Subject: RE: Update

Laura Luther Risk Based Corrective Action Unit Chief Tanks Section Missouri Department of Natural Resources (573) 751-6822 laura.luther@dnr.mo.gov

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From: Sturgess, Steve

**Sent:** Wednesday, September 07, 2016 1:38 PM **To:** Koon, Ken; Luther, Laura; 'Drouare, Douglas'

Subject: RE: Update

Doug, thanks for trying to get the "rest of the story." Much appreciated.

Can someone please send me the attachments referenced in the first email in this chain?

Thanks.

Steve Sturgess, Director
Hazardous Waste Program
Missouri Department of Natural Resources

P.O. Box 176, Jefferson City, MO 65102 (573) 751-1187

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From: Koon, Ken

**Sent:** Wednesday, September 07, 2016 9:32 AM

To: Luther, Laura; 'Drouare, Douglas'

**Cc:** Sturgess, Steve **Subject:** RE: Update

Doug,

On the Manchester Conoco – I kept telling them we needed the explanation and for them to address the points of the letter. They choose to keep arguing that they didn't need to do anything. This and many sites could have been resolved much sooner, but they continue to take the stance, that we are not going to do anything and the sites go through unnecessary delays from then on.

Once they first transferred this to Aaron, they then brought up that we had accepted the pathway being complete about a 1/10 of a mile away. That was new information to me that they had not brought up before and after looking at that, I agreed (after consulting Laura), that we did not need the door to door survey here and agreed the pathway was incomplete. Doug, my staff doesn't have time to review files for sites close, so we leave it up to the consultant to make that argument – they did and we agreed.

But they still needed to at this site, tell us why no water was in the wells – seems logical for the regulatory agency to require the consultant to submit that and tell us why and to seal it, which is a requirement in Missouri. We can't accept these things from PSTIF, as they are prohibited from making technical decisions. It may have been a write-up that was no different than something already submitted in the e-mails, but it needed to be done. Seems ridiculous that it took all this to get it and get the site closed. I agree with you that this was very overblown by the PSTIF.

I get a little tired of the half-truths from PSTIF always making it seem like DNR is the obstacle. And she certainly makes it sound like I am the impediment to getting sites closed. Seems like her new stance is if I am gone, things would improve. If they remove me for taking a stand on making sites go through the process and use science, statistics, modeling and sound technical decisions to show that sites should close, then so be it. I may be without a job, but I will sleep easy knowing that I did my job and did my best to show that the Citizens of Missouri were protected.

## As far as the other conversations she had with Steve earlier this week.

- 1. We communicated back to PSTIF that we seek as much consistency as possible, regardless of who is paying. All new sites should go through a process of complete site investigation, risk evaluation and corrective action.
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Thanks for discussing these items with us. As always, I appreciate you keeping us in the loop and finding out, as Paul Harvey always said "the rest of the story."

Thanks

Ken Koon Tanks Section Chief Hazardous Waste Program 573-526-0971 Ken.koon@dnr.mo.gov

Promoting, Protecting and Enjoying our Natural Resources. Learn more at dnr.mo.gov.

From: Luther, Laura

Sent: Tuesday, September 06, 2016 5:21 PM

To: 'Drouare, Douglas'; Koon, Ken

Subject: RE: Update

For this site, it was really a non-issue like you indicate. All we really needed was for the consultant to document what they had observed and put a seal on it. I did not have an issue with giving the site an NFA once I had the documentation. What I had an issue with was that PSTIF was trying to make the determination, not the consultant.

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Laura Luther
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From: Drouare, Douglas [mailto:drouare.douglas@epa.gov]

Sent: Tuesday, September 06, 2016 11:21 AM

To: Koon, Ken; Luther, Laura

Subject: FW: Update

To me, it seems like the argument over explaining why no groundwater was present in the wells could have been resolved very easily and was over blown. Point number 2 in the second attachment seems to insinuate that sites can be characterized based (partially?) on political boundaries? Seems to be a risky premise to me. I understand the sentiment and logic but given the relationship that exists between PSTIF and the MDNR that language could be used as a hammer against you in the future. Is the NFA appropriate? Are you in technical agreement with the outcome? Is there a different set of rules for closure when redevelopment hinges upon it?

Douglas E. Drouare, CPG USEPA, Region 7, AWMD - STOP 11201 Renner Boulevard Lenexa, Kansas 66219 (913) 551-7299 drouare.douglas@epa.gov

From: PSTIF [mailto:pstif@sprintmail.com]
Sent: Friday, September 02, 2016 1:59 PM

To: Drouare, Douglas < drouare.douglas@epa.gov>

Subject: Update

We're making progress on the chronologies... Will be another week or two before I can send you those.

In the meantime, thought I'd share the attached correspondence to give you some insights into recent conversations we've had with DNR. The Manchester Conoco file is a "Dispute Resolution File" that was recently resolved. The other two emails relate to conversation that took place this week during our regular bimonthly Coordination Meeting with DNR; Aaron Schmidt, Steve Sturgess, Dave Walters, and I attended.

# Have a great weekend!

Carol R. Eighmey Executive Director MO Petroleum Storage Tank Insurance Fund PO Box 836 Jefferson City, MO 65102 573-522-2352

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From:

Koon, Ken <ken.koon@dnr.mo.gov>

Sent:

Wednesday, September 07, 2016 9:32 AM

To:

Luther, Laura; Drouare, Douglas

Cc: Subject: Sturgess, Steve RE: Update

Doug,

On the Manchester Conoco – I kept telling them we needed the explanation and for them to address the points of the letter. They choose to keep arguing that they didn't need to do anything. This and many sites could have been resolved much sooner, but they continue to take the stance, that we are not going to do anything and the sites go through unnecessary delays from then on.

Once they first transferred this to Aaron, they then brought up that we had accepted the pathway being complete about a 1/10 of a mile away. That was new information to me that they had not brought up before and after looking at that, I agreed (after consulting Laura), that we did not need the door to door survey here and agreed the pathway was incomplete. Doug, my staff doesn't have time to review files for sites close, so we leave it up to the consultant to make that argument – they did and we agreed.

But they still needed to at this site, tell us why no water was in the wells – seems logical for the regulatory agency to require the consultant to submit that and tell us why and to seal it, which is a requirement in Missouri. We can't accept these things from PSTIF, as they are prohibited from making technical decisions. It may have been a write-up that was no different than something already submitted in the e-mails, but it needed to be done. Seems ridiculous that it took all this to get it and get the site closed. I agree with you that this was very overblown by the PSTIF.

I get a little tired of the half-truths from PSTIF always making it seem like DNR is the obstacle. And she certainly makes it sound like I am the impediment to getting sites closed. Seems like her new stance is if I am gone, things would improve. If they remove me for taking a stand on making sites go through the process and use science, statistics, modeling and sound technical decisions to show that sites should close, then so be it. I may be without a job, but I will sleep easy knowing that I did my job and did my best to show that the Citizens of Missouri were protected.

#### As far as the other conversations she had with Steve earlier this week.

- 1. We communicated back to PSTIF that we seek as much consistency as possible, regardless of who is paying. All new sites should go through a process of complete site investigation, risk evaluation and corrective action.
- 2. Steve let PSTIF know that we did not say that that the conclusion for one site in a town should be dispositive\* of another site in the same town. We told PSTIF that the data and conclusions for a site(s) in the same town, especially if the site(s) is in close proximity to the subject site, should be taken into consideration in evaluating a new site. This is not the same as saying a previous case(s) should be dispositive. A previous tank site(s), in proximity to the new site, should be looked at in the overall "weight of evidence" approach for evaluating the new site. Geology, hydrology, soils, groundwater usage, proximity to wells, proximity to structures that can be subject to vapor intrusion, etc., can vary significantly over short distances and hence between sites.

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Thanks for discussing these items with us. As always, I appreciate you keeping us in the loop and finding out, as Paul Harvey always said "the rest of the story."

#### **Thanks**

Ken Koon Tanks Section Chief Hazardous Waste Program 573-526-0971 Ken.koon@dnr.mo.gov

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Sent: Tuesday, September 06, 2016 5:21 PM

To: 'Drouare, Douglas'; Koon, Ken

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Tanks Section
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From: Drouare, Douglas [mailto:drouare.douglas@epa.gov]

Sent: Tuesday, September 06, 2016 11:21 AM

**To:** Koon, Ken; Luther, Laura

Subject: FW: Update

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Douglas E. Drouare, CPG USEPA, Region 7, AWMD - STOP 11201 Renner Boulevard Lenexa, Kansas 66219 (913) 551-7299 drouare.douglas@epa.gov

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Sent: Friday, September 02, 2016 1:59 PM

To: Drouare, Douglas < drouare.douglas@epa.gov >

Subject: Update

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Have a great weekend!

Carol R. Eighmey
Executive Director
MO Petroleum Storage Tank Insurance Fund
PO Box 836
Jefferson City, MO 65102
573-522-2352

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JEREMIAH W. (JAY) NIXON
GOVERNOR

DON MCNUTT
CHAIRMAN
BOARD OF TRUSTEES

September 20, 2016

Steve Sturgess
Director, Hazardous Waste Program
MO Department of Natural Resources
PO Box 176
Jefferson City, MO 65102

Dear Mr. Sturgess:

Thank you for your recent letter and for your suggestion that the PSTIF Board of Trustees consider funding a management consultant to perform an independent evaluation of the relationship and work flow between your staff and ours.

The suggestion has merit and may be something the PSTIF Board can consider in the future. However, we already have a full agenda for the September 29 meeting, so will not be able to include this item at this time.

We understand the EPA analyzed at least some of these issues during its recent program review. We look forward to receiving that report; perhaps it will provide a foundation on which additional study and analysis can build.

Sincerely,

Don McNutt

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cc: PSTIF Board of Trustees
Carol Eighmey, PSTIF Executive Director
Sara Parker Pauley, Director, Department of Natural Resources
Aaron Schmidt, Deputy Director, Department of Natural Resources
Leanne Tippett Mosby, Director, Division of Environmental Quality



From:

PSTIF <pstif@sprintmail.com>

Sent:

Thursday, October 06, 2016 8:39 AM

To:

Drouare, Douglas

Subject:

RE: Program Review and LUST Sites up for Redevelopment

Attachments:

Update

Categories:

EZ Record - Shared

There have been several recent examples like that... Perhaps the one you're remembering is Manchester Conoco, ST5208?

I sent you an email and a chronology about that file on 9/2/16; the chronology is attached again to this email.

By the way, I had to take my husband to the ER Sunday, whereupon he spent 2 days in the hospital; needless to say, I haven't been in the office much this week, so am still trying to find time to finish reviewing the chronologies DNR prepared that you shared with us. Hope to get back to that task and finish it today.

#### Carol

**From:** Drouare, Douglas [mailto:drouare.douglas@epa.gov]

Sent: Thursday, October 06, 2016 7:07 AM

**To:** pstif@sprintmail.com

**Subject:** Program Review and LUST Sites up for Redevelopment

I am wracking my brain trying to remember the name(s) of the site(s) we discussed where redevelopment plans were in the works and the LUST investigation/closure work was viewed as an impediment. I am pretty sure we discussed at least one such project during our visit to your office, but I cannot find reference material in my notes. What were the names of the projects we discussed or for that matter names of those types of projects we did not discuss?

#### Thanks,

Douglas E. Drouare, CPG USEPA, Region 7, AWMD - STOP 11201 Renner Boulevard Lenexa, Kansas 66219 (913) 551-7299 drouare.douglas@epa.gov

From:

Koon, Ken <ken.koon@dnr.mo.gov>

Sent:

Thursday, October 06, 2016 4:40 PM

To:

Drouare, Douglas

Subject:

FW: Program Review and LUST Sites up for Redevelopment

Categories:

EZ Record - Shared

Laura's thoughts on the Manchester Conoco. Many times PSTIF says issue the NFA, and we remind them, that by law, they can't make environmental decisions or standards, and that the consultant will have to do that. This was a case of that and we held firm until the consultant signed, sealed and submitted the information.

I call that doing our job. But as I said to you on the phone, they still have to do the same requirements.

Ken Koon Tanks Section Chief Hazardous Waste Program 573-526-0971 Ken.koon@dnr.mo.gov

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From: Luther, Laura

Sent: Thursday, October 06, 2016 3:21 PM

To: Koon, Ken

Subject: RE: Program Review and LUST Sites up for Redevelopment

On Manchester Conoco, if they would have just performed the work requested in April, this could have been finished in May. It isn't that difficult or expensive of work. What we requested of that site wasn't any different from what was requested on sites with similar issues. Whenever groundwater is not found at a site, we have to have an explanation of why. Otherwise, they have an incomplete risk assessment. In this particular situation, they preferred to argue about what they needed to do instead of just providing the same documentation that should have been in the original report. The consultant should have said more than "none found" regarding the groundwater. The consultant is a geologist and therefore has the knowledge and capability to generate a logical explanation in the first report that explained why no water was found at this site. Since that original document did not contain the information, then more information was needed. That information cannot be generated by a conversation between the PSTIF adjuster and I, nor can that information come from a former employee of the company performing the work. The information needed to come from the owner/operator's representative (the consultant of record) and sealed appropriately. When we finally received this information, the site was closed, just like any other site in a similar situation. The only consideration related to the redevelopment was how much work I put into getting that final piece of information.

Regarding looking at domestic use in a town. We discuss looking at sites nearby / in the same town whenever we discuss domestic use. It is part of the weight of evidence. If, for example, in addition to other information, it is determined that the town has had several sites closed under MRBCA and they all have an incomplete domestic use pathway, then we would anticipate that another site in that town would have a similar determination. It should be noted that in some towns, this determination is based on certain investigations occurring and showing the presence of certain geologic features (for example the presence of an aquitard). However, the final determination for any site is site specific. It may be different from every other determination because of its location or the presence of a new well, or the presence of information that was not known previously. Another example could be when an evaluation shows that all the sites closed in a town had a complete domestic use pathway. This again would be considered in the weight of evidence to determine if this determination should apply. What we see more often is towns (particularly small ones)

with some sites with a complete pathway, and some with an incomplete pathway. Then we have to look into each one and see why. When we are dealing with different consultants with different determinations (all with appropriate seals), then we usually evaluate the whole area and see why things are different where and what we should do about each different site. Nothing is straight forward on this evaluation. No one thing determines whether the pathway is complete or incomplete except for an onsite well that is impacted (complete).

Laura Luther
Risk Based Corrective Action Unit Chief
Tanks Section
Missouri Department of Natural Resources
(573) 751-6822
laura.luther@dnr.mo.gov

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From: Koon, Ken

**Sent:** Thursday, October 06, 2016 11:04 AM

To: Luther, Laura

**Subject:** FW: Program Review and LUST Sites up for Redevelopment

I may want to call Doug on this one. Thoughts?

Ken Koon Tanks Section Chief Hazardous Waste Program 573-526-0971 Ken.koon@dnr.mo.gov

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**From:** Drouare, Douglas [mailto:drouare.douglas@epa.gov]

Sent: Thursday, October 06, 2016 10:48 AM

To: Koon, Ken

**Subject:** FW: Program Review and LUST Sites up for Redevelopment

FYI

Douglas E. Drouare, CPG USEPA, Region 7, AWMD - STOP 11201 Renner Boulevard Lenexa, Kansas 66219 (913) 551-7299 drouare.douglas@epa.gov

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From:

PSTIF <pstif@sprintmail.com>

Sent:

Friday, October 07, 2016 3:33 PM

To: Subject: Drouare, Douglas

Attachments:

Additional correspondence
Tanks contact with Williams supervisor; RE: Communications

Categories:

EZ Record - Shared

To keep you apprised on ongoing communications and efforts -

Attached are (a) addenda to one of the email messages I previously forwarded, and (b) a recent communication from our Claims Manager to DNR; he has not received a response yet.

Carol

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From: David Walters < dww@willconsult.com>

Sent: Tuesday, September 06, 2016 11:32 AM

To: Sturgess, Steve

Cc: pstif@sprintmail.com; Dan Henry; Lori Wallace; Kaly Erwin; hpe@willconsult.com

Subject: Tanks contact with Williams supervisor

Steve,

I followed up last week and today with my three supervisors on the "perception" that PSTIF staff are inappropriately delaying projects by not approving work in the field (one of the subjects of the recent DEQ/PSTIF meeting and your PSTIF Board presentation). During our recent meeting Carol opined Tanks employees never contact the PSTIF claims supervisor when this happens. I checked further into the issue and here are my supervisor's responses:

## **Dan Henry**

Per the voicemail I left earlier today, last week I asked Dan Henry if our staff was making inappropriate decisions in the field delaying projects and did anyone from Tanks ever call him about his staff member's decisions. Ironically, he brought up these two recent claims:

ST 4004, R number 8148—DNR line staff requiring two additional borings

ST 3005590 R number 8608-IPES claiming PSTIF was delaying the project

To his credit, Vince Henry on both of the above claims picked up the phone to discuss with Dan Henry (both were Dan Stout claims and DH supervises DS) the PSTIF issue.

Kudos to Vince for reaching out to Dan Henry.

Of note, on ST 4004 our field adjuster indeed did not approve two additional borings, and ultimately Laura L agreed with the decision that they were not necessary but for a different reason than the PSTIF field staff thought was the trigger. (She said the pollution was never going to get off-site so the RAFU question was moot. PSTIF was apparently questioning a RAFU)

On ST 3005590 IPES claimed PSTIF was delaying the project. Again, our field adjuster did not agree with IPES's limited scope of work to conduct ground water monitoring only, as we thought the cleanup warranted *more* work being done. Ultimately on this one the IPES handler sent an apology letter to Dan Stout as he reportedly outright blamed PSTIF (when discussing with DNR Tanks) the delay was PSTIF's fault when reportedly this was an internal IPES problem.

#### **Kaly Erwin**

Kaly reported she has never been contacted by DNR Tanks employees about her staff not approving necessary work in the field. She opined more often than not, PSTIF staff is approving *more* field work, but too often the consultant does not have step-out access, or the driller does not have either the time or necessary materials to do the additional work.

### Lori Grey (Wallace)

Lori has never been contacted by any DNR Tanks employees about her field staff not approving work. Although she is across the state from Kaly (Lori handles Western Missouri) she made the exact same comment to me as Kaly's above...."most of the time we are making field decisions to approve more work." I asked her why then more work isn't

getting done, and she again mimicked Kaly—driller didn't have time in their schedule to do more work, access issues, or the driller didn't have enough additional materials to say drill more wells.

As I indicated at our meeting, give me specific examples (enough to show a trend considering we have out of approximately 900 open PSTIF files approximately 750 active files) of PSTIF staff not approving necessary work in the field, and I will look into each and every one of them. Fifty or more recent examples (over the past year or so) would be appreciated as that would be at least a limited trend at approximately 7% of our active inventory.

Of note-PSTIF Board president, Don McNutt, on the same issue wanted ( he made the comment during a 2016 Board meeting) the bar to be at 10% or higher, not 7% but if you can give me 50 or more cases, I'll take the time to look into them.

I think you will agree, absent 50 plus times this has occurred over the past year, your staff's perceptions may be wrong.

I will keep an open mind on the subject and await your staff's list.

Thanks,

David

From: Sent: Sturgess, Steve <steve.sturgess@dnr.mo.gov> Wednesday, September 07, 2016 2:12 PM

To:

pstif@sprintmail.com

Cc:

David Walters; Schmidt, Aaron

Subject:

**RE: Communications** 

Thanks for the clarifications. Appears to me we are now on the same page on these two topics.

Steve Sturgess, Director Hazardous Waste Program Missouri Department of Natural Resources P.O. Box 176, Jefferson City, MO 65102 (573) 751-1187

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**From:** PSTIF [mailto:pstif@sprintmail.com] **Sent:** Tuesday, September 06, 2016 4:25 PM

To: Sturgess, Steve

**Cc:** David Walters; Schmidt, Aaron **Subject:** RE: Communications

My commendation obviously fell flat, due to my "unartful word craft." Thank you for responding and clarifying.

With regard to #1 – During the meeting with EPA, Doug Drouare specifically inquired about Item III.I in the handout; you responded DNR's *standards* are the same and will be administered without regard to who's paying for the cleanup. We were glad to hear you say that, since other DNR managers have said DNR can and should "set the bar higher" when PSTIF is paying than when other parties are paying.

With regard to #2 – I was not using the word "dispositive" in a legal sense. Perhaps "instructive" would have been a better word choice. The point is: Others have said things like, "I don't care what decision was made on that other file…" or "Every file has to 'stand on its own' and you can't use information from that other file…" You have acknowledged decision-makers can and should make use of all pertinent info. We appreciate your position.

As an aside, this exercise reaffirms my distaste for "dialogue via email." Human-to-human conversation is much better!

Regards,

Carol

From: Sturgess, Steve [mailto:steve.sturgess@dnr.mo.gov]

Sent: Friday, September 02, 2016 2:26 PM

To: PSTIF Office

**Cc:** Schmidt, Aaron; David Walters **Subject:** RE: Communications

- 1. I do not remember making this specific statement at the meeting with EPA, and neither does Ken, but that's beside the point. I'll address what you have stated. As an overarching statement, we seek as much consistency as possible, regardless of who is paying. All new sites should go through a process of complete site investigation, risk evaluation and corrective action. Tanks management work hard to have staff follow the same procedures, and hold "white board" meetings with staff as one means of accomplishing this. However, 100% consistency is not always achievable, given caseloads, differences in approaches by different project managers over time, etc. There will always be site-specific differences (geological settings, stream classifications, hydrologic characteristics, soil types, urbanization, etc.) that, when factored into the weight of evidence approach, and in the context of professional judgment, will inevitably lead to differences in opinions. Finally, regulations also allow MDNR to vary from the process ("as approved by DNR") at any time. In other words, we can accept other state or EPA documents such as the Virginia trench model or EPA's monitored natural attenuation document. Consultants have used these alternative approaches, with DNR approval, to close sites.
- 2. This is <u>not</u> what I said. I did not say that the conclusion for one site in a town should be dispositive\* of another site in the same town. What I did say is that the data and conclusions for a site(s) in the same town, especially if the site(s) is in close proximity to the subject site, should be *taken into consideration* in evaluating a new site. This is not the same as saying a previous case(s) should be dispositive. A previous tank site(s), in proximity to the new site, should be looked at in the overall "weight of evidence" approach for evaluating the new site. Geology, hydrology, soils, groundwater usage, proximity to wells, proximity to structures that can be subject to vapor intrusion, etc., can vary significantly over short distances and hence between sites.

\*Dispositive: There are different definitions of dispositive. It appears to me, in the context of your statement below, that you mean "information or evidence that unqualifiedly brings a conclusion to a legal controversy."

Steve Sturgess, Director
Hazardous Waste Program
Missouri Department of Natural Resources
P.O. Box 176, Jefferson City, MO 65102
(573) 751-1187

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From: PSTIF [mailto:pstif@sprintmail.com]
Sent: Wednesday, August 31, 2016 1:23 PM

**To:** Sturgess, Steve

Cc: Schmidt, Aaron; David Walters

Subject: Communications

Healthy dialogue this morning – a good example of what we've desired and requested.

Wanted to note two specific things you've said recently that are different from what we've heard in the past:

1. You stated at the meeting with EPA that the Department's cleanup requirements are the same and should be administered consistently, regardless of who is paying for the cleanup. This is different than what others have previously told us; we will assume your view is the Department's official position from this point forward.

2. You stated this morning if the Department has concurred "the future drinking water pathway is incomplete" for one tank site in a town, and a consultant is presenting the same conclusion for a similar tank site in the same town and informs your staff of such, that should be dispositive. In other words, it is not necessary to "reinvent the wheel." This position also differs from what other DNR folks have said. We ask you to include this topic in your upcoming discussion with Tanks Section personnel, as Dave and I have the impression this is not a view currently shared by all of them.

Please let me know if I've misunderstood or misrepresented what you said in either case. Assuming we understood you correctly, we very much appreciate your clarifications and positions on both of these important issues.

Regards,

Carol

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From:

Koon, Ken <ken.koon@dnr.mo.gov>

Sent:

Tuesday, October 11, 2016 12:45 PM

To: Subject:

Drouare, Douglas RE: PSTIF Question

Attachments:

History of UST Ins. Fund.doc

The Missouri Underground Storage Tank Fund (MUSTF) was created in 1989 and moved from the Office of Administration into DNR in 1991. The Board of Trustees were created and the MUSTF was renamed into PSTIF in 1996 by Senate Bill 708.

Thanks

Ken Koon Tanks Section Chief Hazardous Waste Program 573-526-0971 Ken.koon@dnr.mo.gov

Promoting, Protecting and Enjoying our Natural Resources. Learn more at <u>dnr.mo.gov</u>.

From: Drouare, Douglas [mailto:drouare.douglas@epa.gov]

**Sent:** Tuesday, October 11, 2016 12:26 PM

To: Koon, Ken

**Subject:** PSTIF Question

What year did PSTIF separate itself from the MDNR? Was that in 92 when they began insuring parties?

Douglas E. Drouare, CPG USEPA, Region 7, AWMD - STOP 11201 Renner Boulevard Lenexa, Kansas 66219 (913) 551-7299 drouare.douglas@epa.gov

# HISTORY OF THE UNDERGROUND STORAGE TANK (UST) INSURANCE FUND

The Missouri Underground Storage Tank Insurance Fund was created in 1989 as part of the original state UST legislation known as House Bill No. 77, et al. Responsibility for the Fund was vested in the Office of Administration. The original fund provided coverage with a sliding deductible between \$25,000 and \$50,000. It was to be funded by a one-time \$100 per tank fee and "actuarial" sound premiums from participants. The premium was to be set by the Office of Administration. The Office of Administration contracted a rate study. The result indicated that required premiums could range from \$500 minimum to over \$2,500 per tank.

In 1991, Senate Bill No. 91 moved the Fund's administration into the Missouri Department of Natural Resources (MDNR), limited tank premiums to \$100 to \$300, and established a "transport load" fee to provide major funding. The deductible was simplified to a flat \$25,000. Third party coverage was increased.

Within one year, MDNR hired a contractor to provide administrative services and began offering applications.

In 1994, House Bill No. 245 amended the deductible from \$25,000 to \$10,000 and provided full coverage of cleanup and third party claims.

With the passage of House Bill No. 251 (HB251) in 1995, the Fund offered remedial cleanup benefits to a vast pool of reported sites. As a result, MDNR initiated a campaign to inform the public of the new law, receive notifications of sites under HB251, and to develop an effective, integrated strategy to control Fund costs and expenditures.

Senate Bill No. 708, passed in 1996, amends the Petroleum Storage Tank Insurance Fund by establishing a Board of Trustees, extending the 'window' for UST sites to qualify, and expanding benefits to certain above ground storage tank sites beginning July 1, 1997.

House Bill No. 1148, passed in 1998, amended the Petroleum Storage Tank Insurance Fund by a change of responsibilities historically done by MDNR and the Attorney Generals Office to the PSTIF, such as remitting the \$100 per tank application fee for UST's and AST's, transfer authority to PSTIF for cost approval and denial for cleanup work, transfer rulemaking authority to PSTIF for cleanup work costs, and transfers third party claim defense costs to the PSTIF. With additional changes included, it extends the sunset date on the Petroleum Storage Tank to December 31, 2003, prohibits marine terminals from participation, and clarifies that the insurance fund covers third-party claims involving property damage or bodily injury.

House Bill No. 603, passed in 1999, set a deadline date under current law, to receive monies from the petroleum storage tank insurance fund, owners of existing tanks must have applied for participation in the fund by December 31, 1997. It required the PSTIF fund to provide monies for cleanup of contamination caused by releases from tanks owned by a school district in Iron County, if the district applies to the fund by August 28, 1999, tanks on property purchased before December 31, 1985, if the tanks were not in service immediately before the purchase, cleanup expenses are incurred after August 28, 1999, and the owners report the tanks to the fund by June 30, 2000, and piping or related equipment of 5,000-gallon or smaller tanks, if cleanup expenses were incurred between April 1, 1999, and April 1, 2000, and the owner is the sole provider of retail fuels within a 5-mile area and applies to the fund by August 28, 1999.

House Bill 453, passed in 2001, extends the Petroleum Storage Tank Insurance Fund expiration date from December 31, 2003, to December 31, 2010. The bill also increases the maximum surcharge assessed on each petroleum transport load from \$25 to \$60 and tank owners and operators are allowed to continue participating in the fund after transferring their property to another party.

Senate Bill 907, passed in 2008, extends the Petroleum Storage Tank Insurance Fund expiration date to December 31, 2020. Other changes include requiring AST's to have financial responsibility, PSTIF Board as type III agency, PSTIF would not expire if EPA rules are revoked, clarifies coverage for third party claims, give PSTIF ability to raise insurance fees and require assessments to access funding.

Senate Bill 135, passed in 2011 requires by April 1, 2012, the PSTIF Board of Trustees of the Petroleum Storage Tank Insurance Fund must hold at least one public hearing to determine if it should create an underground storage tank operator training program. In making its decision, the Board must consider: input from the Departments of Natural Resources and Agriculture, the Board's advisory committee, and relevant portions of the private sector; federal financial ramifications; and other training programs already in use.

If the Board decides that a training program is necessary, the act lists requirements for the program. The program must meet federal requirements, be developed in collaboration with certain entities, be offered at no cost to individuals who are required to attend, specify certain standards and documentation requirements, and be developed by rule. The Board may contract with third parties to provide the training. The Board may modify or eliminate the program by rule. Records for the program must be made readily available to the Department of Natural Resources.

From: Sent:

Koon, Ken <ken.koon@dnr.mo.gov> Tuesday, October 11, 2016 3:14 PM

Sent:

Drouare, Douglas

Subject:

RE: Dispute Resolution Process and the Program Review

Categories:

EZ Record - Shared

- 1. ST10486, R3271, Casey's, Lexington, MO
- 2. ST5208, R8977, Manchester Conoco, Rockhill, MO
- 3. ST5800164, R4233, Break Time, Marshall Junction, MO
- 4. ST4051, R9109 Milford's, Laclede, MO AST closure process
- 5. North Kansas City Drinking water pathway (7 individual release sites)
- 6. Chillicothe Drinking Water Pathway (4 individual sites)
- 7. ST13141, R6977, Tree Court Builder Supply, St. Louis, MO
- 8. ST135, R8125 & 7317, Jonez Travel Center (Mart), Cameron, MO (2 R#'s)
- 9. ST8890, R6621 & 8829, Wood Oil, Albany, MO
- 10. ST1065, R6354, Morris Oil, Branson, MO
- 11. ST11699, R7033, Break Time, Springfield, MO

These are just the sites that went above me in the dispute resolution process. There have been many others that came to me for decision that we resolved or I sent back to PSTIF and I assume they moved forward with what we said. Would take me longer to put that list together

#### **Thanks**

Ken Koon Tanks Section Chief Hazardous Waste Program 573-526-0971 Ken.koon@dnr.mo.gov

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**From:** Drouare, Douglas [mailto:drouare.douglas@epa.gov]

**Sent:** Tuesday, October 11, 2016 12:33 PM

To: Koon, Ken

Subject: Dispute Resolution Process and the Program Review

It's me again ©

Could you provide us with a list of projects that have gone to your dispute resolution process?

Thanks,

Douglas E. Drouare, CPG USEPA, Region 7, AWMD - STOP 11201 Renner Boulevard Lenexa, Kansas 66219 (913) 551-7299 drouare.douglas@epa.gov

From: Sent:

Luther, Laura <a href="Laura.luther@dnr.mo.gov">Luther, Laura <a href="Laura.luther@dnr.mo.gov">Laura.luther@dnr.mo.gov</a> Tuesday, October 11, 2016 4:23 PM ken.koon@dnr.mo.gov; Drouare, Douglas

To: Subject:

RE: Dispute Resolution Process and the Program Review

Categories:

EZ Record - Shared

ST11820, R5903 Wolf's, Chesterfield, MO
ST12698, R8151 Kennett Conoco, Kennett, MO
ST12209, R4899 Galena Maintenance, Galena, MO
ST4071, R6548 Eichers Auto, Lake Ozark, MO
ST11941, R6234, R7523 Clearmont Mainenance, Clearmont, MO
ST10817, 8700 Break Time #3066, Moberly, MO
ST4289, R8637 Lynchburg Store, Lynchburg, MO
ST11131, R7647 Desoto Citgo, Desoto, MO
ST10711, R6375 Crystal City #2, Crystal City, MO
ST9284, R8920 Break Time #3156, Boonville, MO
ST13563, R7247 Troy Service Station, Troy, MO

Laura Luther
Risk Based Corrective Action Unit Chief
Tanks Section
Missouri Department of Natural Resources
(573) 751-6822
laura.luther@dnr.mo.gov

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From: Koon, Ken

Sent: Tuesday, October 11, 2016 3:16 PM

**To:** 'Drouare, Douglas' **Cc:** Luther, Laura

Subject: RE: Dispute Resolution Process and the Program Review

Laura, did I miss any sites below?

Ken Koon Tanks Section Chief Hazardous Waste Program 573-526-0971 Ken.koon@dnr.mo.gov

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From: Koon, Ken

Sent: Tuesday, October 11, 2016 3:14 PM

To: 'Drouare, Douglas'

Subject: RE: Dispute Resolution Process and the Program Review

- 1. ST10486, R3271, Casey's, Lexington, MO
- 2. ST5208, R8977, Manchester Conoco, Rockhill, MO

- 3. ST5800164, R4233, Break Time, Marshall Junction, MO
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Thanks

Ken Koon Tanks Section Chief Hazardous Waste Program 573-526-0971 Ken.koon@dnr.mo.gov

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**From:** Drouare, Douglas [mailto:drouare.douglas@epa.gov]

**Sent:** Tuesday, October 11, 2016 12:33 PM

To: Koon, Ken

**Subject:** Dispute Resolution Process and the Program Review

It's me again 😊

Could you provide us with a list of projects that have gone to your dispute resolution process?

Thanks,

Douglas E. Drouare, CPG
USEPA, Region 7, AWMD - STOP
11201 Renner Boulevard
Lenexa, Kansas 66219
(913) 551-7299
drouare.douglas@epa.gov

From: PSTIF <pstif@sprintmail.com>

Sent: Wednesday, October 12, 2016 11:19 AM

To: Drouare, Douglas

**Subject:** And yet another pertinent example . . . **Attachments:** removed.txt; 20161012105157864.pdf

Categories: EZ Record - Shared

See below and attached.

Carol

**From:** David Walters [mailto:dww@willconsult.com] **Sent:** Wednesday, October 12, 2016 9:52 AM

To: 'Koon, Ken'

**Cc:** 'smudumala@prudentweb.com'; 'PSTIF'; Lori Wallace **Subject:** FW: Workingman's Friend, cl 61259, st 3329

Ken,

This is an example of a consultant apparently blaming PSTIF for what appears to be their own delays getting together their work plan, and approval from CVS to send us a cost estimate.

Maybe I and my Supervisor, Lori Gray/Wallace, are reading the DNR database notes incorrectly (your notes I put in green), but what appears to have been relayed to DNR Tanks doesn't correspond with the PSTIF file notes. Not even remotely. See red below from my supervisor. Also, note the following file notes in the PSTIF database:

293, 294, 295, 296, 297, 298, 299, 301, 302, 303, 306.

Clearly, PSTIF has been trying to get this project going since at minimum Jan 8,2016 with very slow or no response from the consultant. I am not looking for a response from DNR but I just wanted to point out again, too many times we are being made the scapegoat for slow consultant work.

This obfuscation of the truth is probably playing into your staff's *perception* PSTIF is the problem. Certainly we were not the delay on this file.

David

From: Lori Wallace

**Sent:** Wednesday, October 12, 2016 9:08 AM **To:** David Walters < <a href="mailto:dww@willconsult.com">dww@willconsult.com</a> **Subject:** Workingman's Friend, cl 61259, st

I wanted to make you aware of the following note in the DNR database:

8/22/16:HM: Received the following email update from the site consultant "Terracon and CVS received the attached letter. We are attempting to move forward with the site but have been delayed with PSTIF reimbursement efforts.

PSTIF file note #303 shows PSTIF finally got a work plan and cost estimate from Terracon on 8-19-16 giving PSTIF less than 5 days to review the proposal. The work was done on 8-24-16 without our pre-approval.

I have been in correspondence with PSTIF as recently as last week and requested they grant approval of our proposed costs to keep this project site moving forward. At this time, I still do not have approval from them. Should PSTIF elect not to approve our costs, CVS will still move forward with site closure activities and wants to keep moving forward. However, I wanted to ask that we be granted an extension to complete the proposed scope of work until December 31st, 2016 to make sure that we stay in compliance with MDNR regulations. If you have any questions or would like to discuss further, please let me know or feel free to give me a call. Approved 15 days extension.

8/23/16:HM: Reeived the following eamil from the site consultant "We will proceed with the approved activities to meet this deadline".

In actuality, the consultant never provided a proposal with costs to JC until 08/19/16. Field work was performed on 08/24-25/16 without pre-approval. Badri made many attempts to obtain a proposal from Terracon. I called them a time or two but nothing much happened on this site.

L

Lori J. Gray (Wallace), RG Petroleum Storage Tank Insurance Fund P.O. Box 104116 Jefferson City, Mo 65110 Office: 800-765-2765 Cell 913-669-4243

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Claim Diary Print - MO Williams & Company - MO PST Page: 1 Date: 10/12/16 Time: 11:04 clcliqd0.p

Claim: 61259

Site: 0003329 Name: WORKINGMANS FRIEND #502 Owner: 36368 Name: JOHN C BYRAM JR

Owner: 36368 Name: JOHN C BYRAM JR

Hours: 0.20 Entered Date: 01/08/16 User: pr7 Expenses: 0.00 Log Entry: 293 Effective Date: 01/08/16 Type: GC Adjuster: PR7

Review DNR letter dated December 22, 2015 indicating 'letter of warning' will be isssued if SC report was not submitted. Left voice message with the consultant to find an update on the submission of report.

Hours: 0.20 Entered Date: 01/27/16 User: pr7 Expenses: 0.00 Log Entry: 294 Effective Date: 01/27/16 Type: GC Adjuster: PR7

Commuicated with Kyle to find the submission of the report. If no response, will call client. Badri

Hours: 0.20 Entered Date: 02/01/16 User: pr7 Expenses: 0.00 Log Entry: 295 Effective Date: 02/01/16 Adjuster: PR7 Type: GC

Commuicated with Kyle who indicated they are preparing WP for additional SC. They are waiting for client authorization before it could be submitted. Badri

Hours: 0.20 User: pr7 Expenses: 0.00 Entered Date: 03/08/16 Log Entry: 296 Effective Date: 03/08/16 Type: GC Adjuster: PR7

Commuicated with the consultant on the progres of submitting the WP. Badri

Hours: 0.10 User: ljw Expenses: 0.00 Entered Date: 03/18/16 Log Entry: 297 Effective Date: 03/18/16 Type: GC Adjuster: LJW

Request an update from Ashley Stuerke (currently out of the office).

L Wallace

Hours: 0.20 User: ljw Expenses: 0.00 Entered Date: 03/29/16 Log Entry: 298 Effective Date: 03/29/16 Type: GC Adjuster: LJW

Receive response from Kyle Loftus (Terracon) who indicates he is now the PM for this site. He provided a pdf of a report/work plan and indicated once he has DNR approval, they will proceed with cost reimburseemnt to avoid repeating steps in the process. He further indicated that their client wants to proceed with site closure regardless of the amount of PSTIF

10/12/16 Date: Claim Diary Print - MO Page: Time: 11:04 Williams & Company - MO PST clcliqd0.p

Claim: 61259

Site: 0003329 Name: WORKINGMANS FRIEND #502

Owner: 36368 Name: JOHN C BYRAM JR

Hours: 0.20 Entered Date: 03/29/16 User: ljw Expenses: 0.00 Log Entry: 298 Effective Date: 03/29/16 Type: GC Adjuster: LJW \*\*\* CONTINUED \*\*\*

reimbursement. I requested he keep Badri in the loop regarding any work on this site.

L Wallace

Hours: 0.20 Entered Date: 04/22/16 User: pr7 Expenses: 0.00 Log Entry: 299 Effective Date: 04/22/16 Type: GC Adjuster: PR7

Spoke to Kyle on the site status. Per Kyle DNR approved the WP. He would now provide costs for the WP, go through our routine process before commencing the field work. Badri

Hours: NOTE Entered Date: 04/27/16 User: slh Expenses:

300 Effective Date: 04/22/16 Type: GC Adjuster:

RECEIVED 4/12/16 LETTER FROM DNR APPROVING 3/28/16 WORKPLAN.

SHUGHES

Hours: 0.20 Entered Date: 05/19/16 User: pr7 Expenses: 0.00 Log Entry: 301 Effective Date: 05/19/16 Type: GC Adiuster: PR7

Left voice message with Kyle to find the progress of the site (costs be provided or would they continue to drill?) badri

Hours: 0.10 Entered Date: 06/21/16 User: pr7 Expenses: 0.00 Log Entry: 302 Effective Date: 06/21/16 Type: GC Adjuster: PR7

Spoke with Kyle who said he is waiting for CVS to agree the costs before they submit plan to PSTIF. Per Kyle, DNR agreed to their WP. Badri

Hours: 0.10 Entered Date: 08/19/16 User: pr7 Expenses: 0.00 Log Entry: 303 Effective Date: 08/19/16 Type: GC Adjuster: PR7

Received Wp/Ce from Terracon. Requested he subnit the roposal to Jeff City office. Field work was scheduled for August 24, 2016.

Date: 10/12/16 Claim Diary Print - MO Page: 3
Time: 11:04 Williams & Company - MO PST clcligd0.p

Claim: 61259

Site: 0003329 Name: WORKINGMANS FRIEND #502

Owner: 36368 Name: JOHN C BYRAM JR

Hours: 0.10
Entered Date: 08/19/16 User: pr7 Expenses: 0.00
Log Entry: 303 Effective Date: 08/19/16 Type: GC Adjuster: PR7

\*\*\* CONTINUED \*\*\*

Badri

Hours: 6.30 Entered Date: 08/24/16 User: pr7 Expenses: 12.95 Log Entry: 304 Effective Date: 08/24/16 Type: GC Adjuster: PR7

Went on-site to observe installation of MWs. Only one MW was installed due to delayed start and crew was looking for the wells at the site. Badri

Hours: 6.00
Entered Date: 08/25/16 User: pr7 Expenses: 12.95
Log Entry: 305 Effective Date: 08/25/16 Type: GC Adjuster: PR7

Went on-site to observe installation of two MWs. One MW could not be found. Badri

Hours: NOTE
Entered Date: 08/29/16 User: slh Expenses:
Log Entry: 306 Effective Date: 08/26/16 Type: GC Adjuster:

RECEIVED 8/19/16 COST ESTIMATE FOR SC AND 3/28/16 INTERIM SITE INVESTIGATION REPORT AND WORKPLAN FOR ADD'L SC FROM TERRACON AND FORWARDED TO BADRI SRINIVAS AND LORI WALLACE.

S HUGHES

End of report.

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From:

Koon, Ken <ken.koon@dnr.mo.gov>

Sent:

Wednesday, October 12, 2016 2:04 PM

To: Cc: Drouare, Douglas Luther, Laura

Subject:

FW: Dispute Resolution Process and the Program Review

Attachments:

R8637 Kutt EXPEDITE closure memo 02192015 (2.26.15).doc; Kennett

Categories:

EZ Record - Shared

Some more information provided in red. I can do that for the other sites too if you desire.

Ken Koon Tanks Section Chief Hazardous Waste Program 573-526-0971 Ken.koon@dnr.mo.gov

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**From:** Drouare, Douglas [mailto:drouare.douglas@epa.gov]

Sent: Wednesday, October 12, 2016 6:56 AM

To: Luther, Laura; Koon, Ken

Subject: RE: Dispute Resolution Process and the Program Review

That's quite a list ... thanks

Douglas E. Drouare, CPG
USEPA, Region 7, AWMD - STOP
11201 Renner Boulevard
Lenexa, Kansas 66219
(913) 551-7299
drouare.douglas@epa.gov

From: Luther, Laura [mailto:laura.luther@dnr.mo.gov]

Sent: Tuesday, October 11, 2016 4:23 PM

To: ken.koon@dnr.mo.gov; Drouare, Douglas <drouare.douglas@epa.gov>

Subject: RE: Dispute Resolution Process and the Program Review

ST11820, R5903 Wolf's, Chesterfield, MO – This site was dealt with politically many years ago and has some restrictions in the NFA. In the dispute resolution process, they want the restrictions removed. We have told them, to have the restrictions removed they have to re-evaluate the property in the areas where the restrictions apply.

ST12698, R8151 Kennett Conoco, Kennett, MO – This was a mess to say the least. Prior to the dispute resolution process. I attached the e-mail from PSTIF above that suggested a new buyer and the idea that DNR not prosecute them if PSTIF monies were not sufficient to complete the cleanup. After many high level political meetings and much argument, we found the absentee owner, came up with a cleanup technology and backed PSTIF into a corner to do a pay for performance contract with CalClean. Still got some issue at the public drinking water well but the site/source is being remediated. Site is over a mile away and might be some time for MTBE to quit showing up in well.

ST12209, R4899 Galena Maintenance, Galena, MO – This was actually a MoDOT site. PSTIF had some involvement, but MoDOT did not submit any payment to PSTIF. MoDOT did not want to do any work to sample. We sampled but no contamination above DTL's. Resolved at my level.

ST4071, R6548 Eichers Auto, Lake Ozark, MO – an agreement was made for steps to be done at the site, all but replacement of the drinking water wells and abandonment was done. No RP here so site is abandoned and setting there. PSTIF was involved in the negotiations. This one was dealt with prior to the dispute resolution process.

ST11941, R6234, R7523 Clearmont Mainenance, Clearmont, MO – This was actually more of a MoDOT issue with DNR, as they did not want to do anymore work on the site. PSTIF was involved as MoDOT could have asked for reimbursement but didn't. MoDOT contacted our management, but we stuck to our guns, got the sampling to be able to close the site. Resolved at my level.

ST10817, 8700 Break Time #3066, Moberly, MO – The consultant did not evaluate a the surficial soil indoor inhalation pathway per the Publication 2162 published in 2004/2005. This publication was done shortly after the release of the 2004 guidance document to deal with the pathway in situation where there is shallow groundwater and therefore, a potential indoor inhalation risk. After further review, our PM's together decided that the level of contamination did not pose a risk. If the contamination had been higher, we would have wanted to see more analysis/evaluation. This was resolved at my level.

ST4289, R8637 Lynchburg Store, Lynchburg, MO – This was a dispute resolution process that got a memo from management that overturned my decision to require additional sampling on plume stability. The memo lists the site specific conditions that were looked at in the evaluation.

ST11131, R7647 Desoto Citgo, Desoto, MO – PSTIF got involved in this one, by telling the owner to call Management and complain. Laura has a conference call with the owners consultant and PSTIF and resolved the issues, a report was submitted that we accepted and we issued the NFA. This one actually got resolved at Laura's level.

ST10711, R6375 Crystal City #2, Crystal City, MO – The owners and PSTIF contacted a state legislator on this one. It involved off-site contamination that had impacted groundwater in contact with the basement of an off-site structure. There were disagreements with plume stability, that in a nutshell, were about fluctuations in the middle of the plume. PSTIF said we didn't need to know in the middle of the plume, and I said they did as that well was next to the off-site structure and if contamination was still moving inside the plume we would not issue an NFA. Also had to do with engineering of a waterproofing material of basement. The owner and PSTIF didn't know why we wouldn't approve it and I wouldn't approve it until they showed it would seal the basement for both vapors and water (for obvious reasons). This one got resolved at my level. It does though show long delays due to PSTIF interference. I would love to set down and go over this one sometime.

ST9284, R8920 Break Time #3156, Boonville, MO – This is another one where PSTIF said, call DNR management because the Tanks Section isn't doing what you want (hearsay). Involves another off-site property (third party lawsuit). The off-site owner, apparently wants to build permanent structures on his RV park, which could change the use from non-residential to residential. So they all (PSTIF and MFA) disagree. The also apparently, disagree that we are asking why they replaced some of the hydrants at the RV park and not all to address impacted drinking water. How did they know, which ones to replace and how the others are not impacted, in other words did you delineate the extent of contamination? We are holding to our guns on this one. This is not in dispute resolution, but rather being handled by our Legal Department and MFA's legal department.

ST13563, R7247 Troy Service Station, Troy, MO – This is an off-site issue of groundwater contamination. There is some access issues with the off-site property owner. PSTIF has wanted us to move on and ignore the off-site, because they refuse access. I have remind PSTIF that we will attempt to help the parties come together and move forward. We have a process for dealing with properties that refuse access and we have not been through that process. This site is still in that process.

Laura Luther
Risk Based Corrective Action Unit Chief
Tanks Section
Missouri Department of Natural Resources
(573) 751-6822
laura.luther@dnr.mo.gov

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From: Koon, Ken

Sent: Tuesday, October 11, 2016 3:16 PM

**To:** 'Drouare, Douglas' **Cc:** Luther, Laura

Subject: RE: Dispute Resolution Process and the Program Review

Laura, did I miss any sites below?

Ken Koon Tanks Section Chief Hazardous Waste Program 573-526-0971 Ken.koon@dnr.mo.gov

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From: Koon, Ken

Sent: Tuesday, October 11, 2016 3:14 PM

To: 'Drouare, Douglas'

Subject: RE: Dispute Resolution Process and the Program Review

- 1. ST10486, R3271, Casey's, Lexington, MO
- 2. ST5208, R8977, Manchester Conoco, Rockhill, MO
- 3. ST5800164, R4233, Break Time, Marshall Junction, MO
- 4. ST4051, R9109 Milford's, Laclede, MO AST closure process
- 5. North Kansas City Drinking water pathway (7 individual release sites)
- 6. Chillicothe Drinking Water Pathway (4 individual sites)
- 7. ST13141, R6977, Tree Court Builder Supply, St. Louis, MO
- 8. ST135, R8125 & 7317, Jonez Travel Center (Mart), Cameron, MO (2 R#'s)
- 9. ST8890, R6621 & 8829, Wood Oil, Albany, MO
- 10. ST1065, R6354, Morris Oil, Branson, MO
- 11. ST11699, R7033, Break Time, Springfield, MO

These are just the sites that went above me in the dispute resolution process. There have been many others that came to me for decision that we resolved or I sent back to PSTIF and I assume they moved forward with what we said. Would take me longer to put that list together

**Thanks** 

Ken Koon Tanks Section Chief Hazardous Waste Program 573-526-0971

#### Ken.koon@dnr.mo.gov

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From: Drouare, Douglas [mailto:drouare.douglas@epa.gov]

Sent: Tuesday, October 11, 2016 12:33 PM

To: Koon, Ken

**Subject:** Dispute Resolution Process and the Program Review

It's me again ☺

Could you provide us with a list of projects that have gone to your dispute resolution process?

Thanks,

Douglas E. Drouare, CPG USEPA, Region 7, AWMD - STOP 11201 Renner Boulevard Lenexa, Kansas 66219 (913) 551-7299 drouare.douglas@epa.gov

# TANKS SECTION JOB REQUEST FORM

33 Kutt EXPEDITE closure memo 02192015
Date Mailed:
o:Abby
c:Abby
Laura Luther, Chief
Laura Luther, Chief RBCA Unit
Laura Luther, Chief RBCA Unit  JEFF  FEES
Laura Luther, Chief RBCA Unit  JEFF  FEES CLOSURE
Laura Luther, Chief RBCA Unit  JEFF  FEES
Laura Luther, Chief RBCA Unit  JEFF  FEES CLOSURE
Laura Luther, Chief RBCA Unit  JEFF  FEES CLOSURE

dnr.mo.gov

#### **MEMORANDUM**

DATE:

February 20, 2015

TO:

File - ST0004289, R008637

Lynchburg General Store, 40890 Highway 32, Lynchburg, Laclede County, MO

FROM:

Aaron Schmidt, Deputy Director

Division of Environmental Quality

SUBJECT:

No Further Action Regarding Release Number R007033,

Based upon a review of the documentation that has been submitted regarding the subject site, including a Tier 1 Risk Assessment dated July 9, 2013, the Department has determined that "No Further Action" is required related to the chemicals of concern identified in the environmental site assessment reports. These reports conclude that there is no unacceptable risk to human health and the environment for the exposure model presented in the risk assessment, as long as the following conditions are met:

- 1. Current and continued non-residential use of the site property. In other words, prior to construction of a residential building on the property, further investigation and evaluation is needed.
- 2. No current or future domestic consumption of the shallow groundwater at the site property indicated above. In other words, prior to construction of any additional drinking water wells at the property, further investigation and evaluation may be needed.

One condition of the Missouri Risk-Based Corrective Action (MRBCA) Guidance Document which has not been met during the completion of this remedial project is the demonstration of a stable groundwater contamination plume. However, based upon the documentation of site specific conditions that are listed below, the Department has decided that no further monitoring of the groundwater at this site is warranted.

• The subject site is currently being utilized for commercial/non-residential purposes and is expected to remain non-residential in the future. The site is an active convenience store/market selling fuel utilizing above-ground storage tanks. Underground storage tanks at the site were removed prior to 1995.

#### ST0004289, R0008637 Page Two

- The deeper groundwater that is used for domestic use wells in the vicinity of the subject site and any down-gradient property, has been determined to be protected from downward migration by an aquitard and upward groundwater migration, preventing any contamination of the usable aquifer. The current and future domestic use of groundwater pathway at this site has been determined to be incomplete.
- The risk assessment determined that the contamination at this site does not pose a risk to the current or future receptors evaluated. Soil and ground water contamination concentrations are below the Soil Type 3 residential target levels.
- The contamination observed in MW-4 does not appear to be migrating in any horizontal direction. MW-4 is not a perimeter well. Other wells are present nearby but do not contain groundwater at the same depths.
- Bedrock is fairly shallow across the site ranging from a depth of 12 feet to 35 feet deep, and the soil is a Soil Type 3 Clay.
- Shallow groundwater at the site is very sporadic in the unconsolidated zone. There are several monitoring wells at the site that do have sporadic water present. Two monitoring wells have remained dry. However, no wells at the site were completed into the shallow bedrock and were not completed all the way to the water table. They are only completed to intersect the discreet sporadic zones.
- Sufficient data was not available to conduct an overall plume stability evaluation using the Ricker Method. MW-4 did not show stability based on the Mann-Kendall evaluation and the number of sampling events performed. The concentrations in the other monitoring wells at the site are either stable, decreasing, or below detection levels.
- The site monitoring wells were sampled in May and December 2012, May, August and December 2013, and April 2014. MW-4 was also sampled in December 2014. The four most recent events for MW-4 began to indicate stability.
- There is a property transaction awaiting the submittal of the "No Further Action" Letter for this site.

AS:kka

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From: Sent:

Koon, Ken <ken.koon@dnr.mo.gov> Wednesday, October 12, 2016 1:59 PM

To:

ken.koon@dnr.mo.gov

Subject:

Kennett

From: PSTIF [mailto:pstif@sprintmail.com]
Sent: Monday, January 28, 2013 9:38 AM

**To:** Schmidt, Aaron **Subject:** Kennett

Kennett was on my mind all weekend. Here are the options, as I understand them:

- A) The DNR/AGO sued the responsible party, Russell Oil, a company from Arkansas that went bankrupt. Russell no longer owns the property and has never, to my knowledge, cleaned up a single tank site in Missouri. Does the DNR believe it can compel Russell to solicit proposals from consultants, engage a consultant, seek reimbursement from PSTIF, and thereby "complete" the cleanup?
- B) The DNR/AGO also sued James Lowery, a Missouri citizen who made the mistake of buying the property from Russell after the tanks were taken out of service. The legal case against Lowery is very weak, but the fact that the AGO named him in a lawsuit motivated him to remove the tanks/piping and pay the first \$10,000 of cleanup costs. Lowery has since abandoned the property, (i.e., He's no longer paying property taxes; the county reportedly has tried twice to sell it on the courthouse steps), and reportedly has little or no money. As far as we know, Lowery has ignored letters your staff sent him in March and July 2012. Does the DNR believe it can compel Lowery to solicit proposals from consultants, engage a consultant, seek reimbursement from PSTIF, and thereby "complete" the cleanup?
- C) A prospective buyer has offered to work with the DNR and PSTIF to complete the cleanup, but only with a written commitment from the DNR not to prosecute him if PSTIF monies are insufficient to meet DNR's requirements. Has the DNR made and communicated its decision whether to accept or reject this offer?
- D) Or does the DNR have a different plan in mind?

The PSTIF has expended approximately \$200k to date; Lowery spent about \$17k of his own money. My staff continues to research remediation technologies, but we are not in a position to do anything until the Department makes a decision regarding the options listed above. As far as I know, no remediation has occurred since July 2011; groundwater samples were last collected in November 2011.

I hope to hear from you soon. Please let me know if there's anything we can do to assist you in deciding how to move forward with this cleanup.

Regards,

Carol

Ken Koon Tanks Section Chief Hazardous Waste Program 573-526-0971 Ken.koon@dnr.mo.gov Promoting, Protecting and Enjoying our Natural Resources. Learn more at <u>dnr.mo.gov</u>.

From:

d' C . . . 1

Koon, Ken <ken.koon@dnr.mo.gov>

Sent:

Wednesday, October 12, 2016 9:19 AM

To: Cc: Drouare, Douglas Luther, Laura

Subject:

FW: Eicher's Auto Letter

Attachments:

removed.txt; 4.9.15 Eichers Auto.pdf

Categories:

EZ Record - Shared, Record Saved - Shared

Doug,

This is another example of a pre-dispute resolution process site where they and PSTIF hammered out a path forward that is a little different than the RBCA path because of an impending property sale. While outside of the RBCA process, it was acceptable to DNR. However, it was never completed.

We cannot force the property owner now to move forward as they are not the RP for the contamination, however, under the new law, in 2018 the property owner will be an RP.

Thanks

Ken Koon Tanks Section Chief Hazardous Waste Program 573-526-0971 Ken.koon@dnr.mo.gov

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From: Wolfe, Suzanne

Sent: Thursday, April 09, 2015 4:03 PM

To: Koon, Ken

Subject: Eicher's Auto Letter

Suzanne Wolfe Administrative Unit Chief Tanks Section 573-526-0971

Suzanne.Wolfe@dnr.mo.gov

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Jeremiah W. (Jay) Nixon, Governor • Sara Parker Pauley, Director

## DEPARTMENT OF NATURAL RESOURCES

www.dnr.mo.gov

APR 9 2015

Mr. Deiter Ungerboeck 229 Toussaint Landing Drive O'Fallon, MO 63368

RE:

der . . b

Former Eicher's Auto, Rt. 2, Box 279, Lake Road 54-9, Lake Ozark, Camden County, MO - ST0004071, R0006548

Dear Mr. Ungerboeck:

The Missouri Department of Natural Resources' Hazardous Waste Program, Tanks Section, has received a letter from the owner of the Rockwood Resort Motel (Resort); dated March 16, 2015, in regards to petroleum contamination in the north well on the Resort property originating from the above referenced site. The letter was received on March 23, 2015 (copy enclosed).

The Department has sent several letters to encourage the owner of the Resort that the last remaining items to be completed for this remediation project at the former Eicher's Auto is to hook up the Rockwood-Capri Resort Motel (Resort) to the local utilities water supply, to monitor and recover petroleum impacted groundwater from the north well, as well as eventual plugging and abandonment of both the north and south wells.

The Department believes that the Resort should be hooked up to the local utilities water supply. This will ensure that safe drinking water and water for recreational purposes (pool water) are provided in the future to the Resort's staff and occupants (guests). The Department was offering to pay for the connection of the Resort to public water through a one-time federal grant to address sites with petroleum contaminated drinking water wells where the responsible party no longer exists or does not have the means to remedy the situation. The offer to connect the Resort to the local public water supply was not accepted by the Resort owner.

The March 16, 2015 letter indicates that the Resort Owner will grant access to you to use the north well for monitoring and recovery of impacted groundwater. After a period of recovery and after the Resort is either hooked up to the local water supply or a clean source of water is provided, both the north and south wells need to be plugged and abandoned. A "No Further Action" letter cannot be issued for the former Eicher's Auto release until all these activities have been accomplished; as agreed upon in a September 23, 2011 meeting with both you and the former owner of the property, Mr. Gregory Williams (conference record attached).

Mr. Deiter Ungerboeck Page Two

Please respond within 30 days of receipt of this letter with a work plan to use the north well as a monitoring and recovery well.

The Department would also like to make you aware that on January 1, 2018, based on 319.131 9(3) of the Missouri Revised Statutes, you may become, as the property owner, the responsible party for corrective action. You may want to contact an attorney in this matter.

Please direct questions regarding the PSTIF to the Fund Administrator at (573) 761-4060 or (800) 765-2765.

Thank you for your efforts to comply with Missouri's Underground Storage Tank Law and Regulations. If you have questions regarding this letter, you may contact Laura Luther at the Hazardous Waste Program, P.O. Box 176, Jefferson City, Missouri 65102-0176, or at (573) 522-2092.

Sincerely,

HAZARDOUS WASTE PROGRAM

Ken Koon, Chief Tanks Section

#### KK:lls

c: Petroleum Storage Tank Insurance Fund

Ms. Carey Bridges, MGS

Mr. Justin Davis, MGS

Mr. Hashim Mukhtar, DNR Tanks Section

Mr. Richard Wetherbee, Project Manager, TRC

Mr. Gregory D. Williams, Manager/Attorney, Lake Ozark Service Center, LLC

From: Sent:

Koon, Ken <ken.koon@dnr.mo.gov>

Sent:

Wednesday, October 12, 2016 8:52 AM

Cc:

Drouare, Douglas Luther, Laura

Subject:

FW: Breaktime #3086 ST11699, R7033 (Northcreek)

Attachments:

removed.txt; ST11699 letter 092413.pdf; ST11699 letter 101713.pdf

Categories:

EZ Record - Shared, Record Saved - Shared

Correspondence on another site PSTIF suggested they contact management to work out. This was actually before the formal dispute resolution process, but went the same path of settlement.

**Thanks** 

Ken Koon Tanks Section Chief Hazardous Waste Program 573-526-0971 Ken.koon@dnr.mo.gov

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From: Luther, Laura

Sent: Thursday, October 24, 2013 9:58 AM

To: Koon, Ken Cc: Garrett, Valerie

**Subject:** Breaktime #3086 ST11699, R7033 (Northcreek)



Here is our letter and the most recent response. I will have Val work on a summary,

Laura Luther

Risk Based Corrective Action Unit Chief Tanks Section Missouri DNR (573) 751-6822 (573) 526-8922 (fax)

.....



www.dnr.mo.gov

SEP 2 4 2013

Mr. John Price Carnahan, Evans, Cantwell & Brown P.C. 2805 South Ingram Mill Rd. Springfield, MO 65804

RE: North Creek Industrial Park, 2500-2700 North Neergard, Break Time # 3086, 2740 East Kearney Ave., Springfield, Greene County, MO – ST0011699, R0007033

Dear Mr. Price:

The Missouri Department of Natural Resources' Hazardous Waste Program, Tanks Section, has reviewed a Revised Tier 1 Risk Assessment report dated March 15, 2013, and a Groundwater Monitoring report dated May 15, 2013, submitted by Midwest Environmental Consultants, for the above referenced facility. The Department received these two reports on March 20, 2013, and May 17, 2013, respectively.

The following comments are based upon a review of these reports and other documents contained in the Department's files for this site.

### Delineation of the Free Product Plume

In letters dated November 2, 2010, and March 5, 2012, the Department requested additional characterization to determine the source of the free product and to delineate the horizontal and vertical extent of the free product plume at this site. Section 6.0 of the Risk Assessment report states that monitoring wells MFA-5 and MFA-6 were installed to delineate the extent of free product to the east and west of MFA-3. The report concludes that since free product was not observed in either MFA-5 or MFA-6, the free product plume has been adequately delineated.

The report, however, did not include a determination of the source of the free product or contain a discussion of how it entered the bedrock and how it is moving through the bedrock. As indicated in the Department's March 5, 2012, letter, we are concerned that there are geological features (secondary fractures and karst features) that are facilitating the movement of the free product through the bedrock. An understanding of the fate and transport of the product at this site is needed to characterize the extent of the product plume and determine the most appropriate recovery technology for the hydrogeology of the site.

The report also did not provide any indication that there is a hydrological connection between MFA-5 and MFA-6 and MFA-3. It is possible that the free product observed in MFA-3 is moving through a fracture or solution channel/void that was not intercepted by MFA-5 and MFA-6. Please explain the source and migration of free product at this site, and provide cross-sectional diagrams or other information needed to support your claim that the new wells were appropriately located, to define the extent of free product to the east and west of MFA-3.

The additional characterization activities also did not include the installation of a monitoring well to the north of the site as requested in the Department's March 5, 2012, letter or provide an adequate demonstration that further delineation of the free product plume in this direction is not possible. While the revised risk assessment report did include topography maps for the North Creek Industrial Park property, it is our understanding that subsequent grading activities have raised the ground elevation to where it is now about level with the road, which should allow easy access for the installation of a monitoring well on the north side of Kearney Street. Furthermore, the maps do not show the existence of buildings or other structures that would prevent the installation of a monitoring well in this area. Please either install additional monitoring wells as needed to delineate the northern extent of the free product plume, or submit adequate demonstration that further delineation in this direction is not possible.

The report also did not discuss the vertical extent of the free product plume as requested in the Department's letter of March 5, 2012. This information is needed to characterize the extent of the free product plume and determine the most appropriate removal technology for the recovery of the free product.

Please provide the additional information needed to characterize the horizontal and vertical extent of the free product plume, or conduct any additional investigation needed to complete the delineation of the free product plume at this site.

#### • Underground Utilities and Construction Worker Pathway

In the Department's letter dated March 5, 2012, the Department stated that it would consider the construction worker pathway to be incomplete if adequate documentation was submitted that indicated the utilities in the area are not installed in bedrock and buildings in the area are not constructed with basements. The Risk Assessment stated that the underground utilities in the vicinity of the site are located above bedrock and that the foundations for all the on-site and adjacent off-site buildings are constructed as concrete slab on grade. The report further stated that the depth to the water line is three (3) feet.

Information obtained from the Springfield City Utilities department, however, indicates that the depth to the top of the water main is 55 inches (4.5 feet) and that the water main is 16 inches in diameter. This would put the bottom of the water pipe at 5.9 feet below ground surface. Previous site characterization activities at the site found the top of bedrock from 4-6.5 feet. As a result, it appears that some of the water line may be installed in the top of bedrock. Furthermore, the Risk Assessment report stated that in January 2013, the depth to free product in MFA-3 was 5.53 feet and the depth to groundwater in MFA-5 was 3.77 feet.

Therefore, it appears that the water line that runs along the north edge of the property (in the vicinity of MFA-3 and MFA-5 may be in contact with free product and/or contaminated groundwater. Further information is needed to show whether the free product and groundwater contamination at this site poses a threat to the city's water main or construction workers operating in the vicinity of the site. A cross-sectional diagram may be helpful in illustrating the relationship between the water line and the bedrock surface and depth to free product and groundwater. Please submit additional information and/or conduct additional investigation as needed to re-evaluate the threat to these receptors.

### • Free Product Recovery

The Risk Assessment report stated that a "spill buddy" pump would be used to recover free product to the extent practicable during the April 2013 groundwater monitoring event. The Groundwater monitoring report, however, indicates that in April 2013, free product was removed from MFA-3 using an absorbent sock. No discussion was provided to indicate why a sock was utilized instead of the product pump.

As stated in its letter dated November 2, 2010, the Department does not consider the use of absorbent socks to be the most appropriate recovery method considering the hydrogeologic conditions at the site. Then in a subsequent letter dated March 5, 2012, the Department requested further documentation regarding the ability of free product to move through the bedrock in order to better evaluate the effectiveness of other free product recovery technologies.

The Groundwater Monitoring report also concluded that the free product at this site has been recovered to the extent practicable. No discussion, however, was provided to show that the free product recovery activities utilized the most appropriate technology for the site, that the recovery activities were performed when conditions were most conducive to effective product recovery, that the radius of influence of the recovery activities was sufficient to affect the entire product plume, and that the free product recovery activities achieved the limits of the technology or reached asymptotic conditions. Please either provide adequate documentation that the free product has been recovered to the extent practicable, or continue free product recovery activities at this site until such documentation can be provided.

### On-site Future Building

The Risk Assessment report and the groundwater monitoring report evaluated the risks to the future, on-site, non-resident from the indoor inhalation of vapors from groundwater pathway using the default effective solubility of the Contaminants of Concern (COCs) in diesel fuel. This appears to have been based upon the results of a product sample collected from MFA-3. While those sample results showed that a large percent of that sample was diesel fuel, there was also a significant percentage of the product sample that contained gasoline range organics (GRO). Unfortunately, the lab report did not include results from the analysis of this sample for benzene, toluene, ethylbenzene, and xylene (BTEX).

If available, please submit additional information on the analysis of the product sample including values for the BTEX components and/or the gas chromatographs. If this information is not available, please either collect another sample of the product for analysis, or if sufficient quantities of product are not present for re-sampling, please consider the product to be a mixture of gas and diesel and utilize the effective solubility values for COCs in gasoline in your evaluation of the risks from the free product.

### • Request for "No Further Action" Letter

The Groundwater Monitoring report requested that the Department issue a "No Further Action (NFA)" letter for this site and close the release file. In light of the comments specified above, the site is not ready for a NFA letter or closure of the release file. Furthermore, in addition to the above referenced comments, the Tier 1 Risk Assessment did not contain a plume stability evaluation that shows the plume is stable or decreasing. Section 7.6 of the MRBCA Guidance Document requires that the remediating party confirm that the plume is stable before requesting the Department issue a NFA letter for the release.

Mr. John Price Page Four

Within 60 days of the date of this letter, please submit a response that addresses the above comments and a work plan for conducting the additional investigation, free product recovery, and groundwater monitoring activities needed to move this site towards closure.

The file for this site is maintained by the Department's Hazardous Waste Program, 1730 East Elm Street, Jefferson City, Missouri 65101. To view this file or obtain copies, please contact the Custodian of Records at (573) 522-4293, e-mail: <a href="mailto:custodianofrecord@dnr.mo.gov">custodianofrecord@dnr.mo.gov</a>, or visit our Web site for additional information at: <a href="http://www.dnr.mo.gov/sunshinerequests.htm">http://www.dnr.mo.gov/sunshinerequests.htm</a>.

Please direct questions regarding the Petroleum Storage Tank Insurance Fund to the Fund Administrator at (573) 761-4060 or (800) 765-2765.

Thank you for your efforts to comply with Missouri's Underground Storage Tank Law and Regulations. If you have questions regarding this letter, you may contact me at the Hazardous Waste Program, P.O. Box 176, Jefferson City, Missouri 65102-0176, or at (573) 751-6822.

HAZARDOUS WASTE PROGRAM

Ken Koon, Chief
Tanks Section

KK:vgt

Mr. Timothy B. O'Reilly c:

David Pate, R.G., Midwest Environmental Consultants

Petroleum Storage Tank Insurance Fund

Petroleum Storage Tank Insurance Fund Ms. Karen Schaefer, Sunbelt Environmental Services

# SMITH LEWIS, LLP ATTORNEYS AT LAW

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(573) 443-3141 • Fax (573) 442-6686

October 17, 2013

Mr. Aaron Schmidt, Deputy Director Missouri Division of Environmental Quality Department of Natural Resources PO Box 176 Jefferson City, MO 65102 AMANDA ALLEN MILLER DANIEL G. BECKETT BETHANY R. FINDLEY

> OF COUNSEL ROBERT C. SMITH

> > PARALEGAL CHERYL L LOBB

a: David Lamb



RE: Break Time #3086, 2740 East Kearney Avenue, Springfield, Missouri ST-11699, R-7033, Claim 61337

Dear Mr. Schmidt:

My client, MFA Petroleum Company, has asked me to communicate on its behalf.

Ms. Carol Eighmey of the Petroleum Storage Tank Insurance Fund suggested that we contact you regarding some difficulties that MFA Petroleum is having with the Tanks Section regarding the Break Time #3086 site located at 2740 East Kearney Avenue, Springfield, Missouri. Based on previous negotiations between the PSTIF and MDNR, Midwest Environmental Consultants (MEC), on behalf of MFA Petroleum, completed additional site assessment, groundwater monitoring, free product recovery and evaluation, and risk assessment activities to address what were thought to be the remaining MDNR issues and concerns at the site. However, in the response to MEC's risk assessment report and free product assessment, recent correspondence suggests that the Tanks Section appears to have reversed their position from the previous negotiations.

MFA Petroleum's previous consultant, Foth Environmental, previously concluded in two separate assessments that MFA Petroleum had met all of MDNR's requirements. MDNR disagreed. As a good faith effort, MFA Petroleum's attorney, John Price, and the previous consultant, Sandra Potter from Foth Environmental, had lengthy discussions with MDNR to get a clear understanding of MDNR's remaining concerns. Mr. Ken Koon, the Chief of the Tanks Section, outlined those concerns in his letter dated March 5, 2012. MFA Petroleum then engaged MEC to address the concerns identified in Mr. Koon's letter. MEC then prepared a workplan to address MDNR's

Mr. Aaron Schmidt October 17, 2013 Page 2

concerns and provided a copy of that plan to MDNR. Having completed that work, MEC addressed these remaining issues in its report submitted to MDNR in March 2013 and in a follow-up groundwater testing report in May 2013. MEC concluded, as had Foth Environmental previously, that based on the previous data and some additional data obtained by MEC after Mr. Koon's letter, that MFA Petroleum had met all MDNR's requirements.

Specifically, MEC provided MDNR with (1) additional mapping of the area north of the Break Time store, (2) results from two additional monitoring wells installed to provide additional horizontal delineation of one of the monitoring wells which contained a small amount of free product (as indicated by MEC's December 2012 work plan provided to MDNR, a third well was not possible), (3) additional analysis as to the horizontal delineation of the free product, (4) a revised risk assessment, (5) an ecological evaluation, and (6) analysis of the free product, including information demonstrating that free product has been recovered to the extent practicable, that free product does not appear to be migrating, and what little remaining free product there is does not present an unacceptable level of risk.

Instead of acknowledging that MFA Petroleum had met the additional requirements that he had identified in March 2012, Mr. Koon took a significant step backward from his previous correspondence and, in a September 24, 2013 letter (copy enclosed), requested fairly extensive additional assessment and evaluation not previously requested by the Tanks Section. Mr. Koon's change in position is difficult to understand, given that the results of the MEC risk assessment found no unacceptable level of risk present at the site for either the current or future usage. Further, MEC's free product evaluation concluded that while *de minimus* amounts of free product continue to be present in a single monitoring well, the free product has been recovered to the extent practicable, and the residual free product poses no risk to the site or surrounding properties.

Based on the assessment and actions completed by MFA Petroleum to date, we do not believe that any further assessment or remedial actions are necessary or warranted. Further, MFA Petroleum does not plan on having MEC respond to Mr. Koon's September 24, 2013 letter. Instead, MFA Petroleum requests that MDNR honor the results of the negotiations that were set forth in Mr. Koon's March 5, 2012 letter, and based on MEC's recent submittals, close the release (R) file, and issue a "no further action" letter for the site.

MFA Petroleum's request is not simply based on having complied with the demands of MDNR. Risk-based corrective action has been accomplished. What remains is a

Mr. Aaron Schmidt October 17, 2013 Page 3

small amount of residual free product that has not migrated and is not even the same product observed in the seep on the North Creek Industrial property—a seep which now sits under a building in an industrial park. There are no unacceptable risks to the environment or to public health at this site. Moreover, by this letter, MFA Petroleum provides notice to MDNR that it plans to complete a "raze and rebuild" of this Break Time facility during the 2015 fiscal year. Any remaining petroleum impacts, even though they do not present an unacceptable risk, can be addressed at that time.

We appreciate your prompt attention to this matter, and look forward to receiving a "No Further Action" letter for this site.

Sincerely,

Michael R. Tripp

Michael R. Dugg

c: Jerry Taylor, MFA Petroleum Company Carol Eighmey, PSTIF

2 2 7 ...

5 64.05

## Drouare, Douglas

From:

Koon, Ken <ken.koon@dnr.mo.gov>

Sent:

Wednesday, October 12, 2016 8:48 AM

To: Cc: Drouare, Douglas Luther, Laura

Subject:

FW: Request to the Director

Categories:

EZ Record - Shared, Record Saved - Shared

Another example of someone pushing us because of trying to sell the property. In this case we actually had a report in and it allowed us to close the site.

PSTIF is almost always in the corner of the issuance of the NFA, opposite of DNR.

**Thanks** 

Ken Koon Tanks Section Chief Hazardous Waste Program 573-526-0971 Ken.koon@dnr.mo.gov

Promoting, Protecting and Enjoying our Natural Resources. Learn more at dnr.mo.gov.

From: Schmidt, Aaron

Sent: Monday, November 18, 2013 8:19 AM

**To:** Koon, Ken; Lamb, David **Cc:** Dobson, Debra; Luther, Laura **Subject:** RE: Request to the Director

I'm not convinced Sara needs to sign it. Just process it out of the program.

From: Koon, Ken

Sent: Friday, November 15, 2013 5:02 PM

To: Lamb, David

Cc: Dobson, Debra; Schmidt, Aaron; Luther, Laura

**Subject:** RE: Request to the Director

The NFA is on my desk. So I can sign it and Sara can sign the letter or I can sign both and send. Here is the draft letter to go with the NFA.

You all can discuss at next week's issues meeting

**Thanks** 

Ken Koon Tanks Section Chief Hazardous Waste Program 573-526-0971 Ken.koon@dnr.mo.gov From: Koon, Ken

Sent: Thursday, November 14, 2013 4:54 PM

To: Lamb, David

**Cc:** Dobson, Debra; Schmidt, Aaron **Subject:** RE: Request to the Director

This one had a document setting in our review drawer for review. After reviewing the document, we agree the plume is stable.

We have prepared a letter in response, discussing why we could not issue an NFA prior to evaluating whether or not the dissolved plum was moving. We can send it for Sara's signature, I can sign and send both, however, you want to do it.

### Thanks

Ken Koon Tanks Section Chief Hazardous Waste Program 573-526-0971 Ken.koon@dnr.mo.gov

From: Lamb, David

Sent: Wednesday, November 13, 2013 6:54 PM

To: Koon, Ken

**Cc:** Dobson, Debra; Schmidt, Aaron **Subject:** FW: Request to the Director

Ken, see email below that was sent to the DNR web contact to Sara's attention. This was forwarded by Luke to the Program for a response, but since this is directed to Sara, I am assuming that we will need to develop a formal written response for her signature to this.

Aaron, any other direction or do you agree that Sara will want to be the one to formally respond to this request?

From: Petree, Luke

Sent: Tuesday, November 12, 2013 4:01 PM

**To:** Lamb, David; Dobson, Debra **Subject:** FW: Request to the Director

Please assist. Thank you!

Luke A. Petree Senior Office Support Assistant General Services/Receptionist MO Dept. of Natural Resources (800)361-4827 (573)526-1000

From: Todd Laytham [mailto:tlaytham@c-ortho.com]

Sent: Tuesday, November 12, 2013 9:30 AM

To: DNR WEB Contact

**Subject:** Request to the Director

Dear Director Pauley,

I am writing you to request consideration of an expedited No Further Action Letter (NFA) on a property located in Anderson, MO (Jiffy Mart, Inc. 702 S Hwy 59, 64831).

The last 2 reports from the environmental company recommended issuance of an NFA with a caveat of more testing. Since this is not my specialty area, of course, it seems odd to request the NFA but also request more testing. Again, only being able to read summary data, it also seemed to me that the reports rarely showed amounts that were out of range and needed cleanup and most instances they were all in normal ranges.

The economic reason for getting this done in an expedient manner is for the benefit of the State of Missouri. Here are some of the points:

- The property owner, Jiffy Mart, Inc. owners Robert & June Laytham, had been trying to sell the business for nearly 7 years and retire, but nobody would buy land with an outstanding claim and no NFA letter.
- At age 70, the owners were still trying to keep the convenience store Jiffy Mart open & 8 employees
  working/paying taxes where they ultimately sunk \$1/4 Million of their saving into the business & took out loans
  on their house/farm property to keep it running.
- 2 years ago, we thought the NFA letter would be forthcoming, so we sold the business to a buyer that didn't work out and walked out with \$50,000 in inventory leaving the business back to the owners who couldn't afford to restock the business. We shut the doors & terminated all the employees that were (are) still on Missouri Unemployment Compensation and other State support.
- Last August 2012, Robert Laytham suffered a massive stroke leaving him with limited function and requiring full-time nursing care. The Skilled Nursing Facilities will use all of his assets soon such that he will be on Missouri Medicaid for the rest of his life in a nursing home.
- We do have a buyer for the property that will only close once the NFA letter is issued (which we thought was
  eminent from previous reports and conversations with our environmental engineers). This buyer has hired a
  very large, publicly-traded environmental firm to demo & prepare the site for new construction (jobs) and build
  a new business (job) and improving the value of the property (taxes) and hiring many new employees (taxes).
- We are at risk of having the buyer walk away from the project which will leave the property to sit as a blight in
  the middle of a small town in Missouri that is in need of some revitalization. If the buyer walks away, Robert &
  June Laytham and Jiffy Mart will be bankrupt at 80 years old thus the property will be left abandoned back to
  the county.
- They really do not have any other choices, chances or hope. I truly believe the MO environment (along with Anderson, MO economics) will be significantly better by quickly issuing an NFA letter based on the last report from the environmental engineers.

Thank you for taking the time to read my concerns and request. If you have any more questions or need additional information, please do not hesitate to contact me.

Sincerely,

R. Todd Laytham, POA 913.219.8554 (cell)

Sent on behalf of Robert & June Laytham, 15168 lbex Rd, Neosho, MO 64850

### **Drouare, Douglas**

From:

Koon, Ken <ken.koon@dnr.mo.gov>

Sent:

Wednesday, October 12, 2016 8:37 AM

To: Cc: Drouare, Douglas Luther, Laura

Subject:

FW: Wolf's Service Station: 17519 Chesterfield Airport Rd. Chesterfield MO.

Attachments:

ST11820 052715clarification LL.doc; ST11820 052715clarification2 LL.doc; XC560278.pdf

Categories:

EZ Record - Shared, Record Saved - Shared

Example on one in the dispute resolution process where the owner does not like the restrictions placed upon them in the NFA and are petitioning for them to be removed. We have countered that your additional work does not address the areas completely and should not grant changes. We are willing to grant changes, if they do the additional work and evaluation.

The NFA was originally issued by me after meetings with the RP and management. The restrictions were placed in the NFA as a compromise to an Restrictive Covenant being placed on the property. We now would make them do an RC on this type of cleanup.

I will continue to look for other examples of property transaction/development issues that PSTIF and the RP's push us to accept things that we shouldn't.

### **Thanks**

Ken Koon Tanks Section Chief Hazardous Waste Program 573-526-0971 Ken.koon@dnr.mo.gov

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From: Luther, Laura

**Sent:** Wednesday, May 27, 2015 4:03 PM

**To:** Schmidt, Aaron

Cc: Lamb, David; Koon, Ken

Subject: RE: Wolf's Service Station: 17519 Chesterfield Airport Rd. Chesterfield MO.

Here are two proposed letters. Let me know what you want to send.

Laura Luther
Risk Based Corrective Action Unit Chief
Tanks Section
Missouri Department of Natural Resources
(573) 751-6822
laura.luther@dnr.mo.gov

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**From:** Schmidt, Aaron

Sent: Wednesday, May 27, 2015 8:18 AM

To: Luther, Laura

Subject: FW: Wolf's Service Station: 17519 Chesterfield Airport Rd. Chesterfield MO.

I left u a message, but I see now from this email what site it pertained to. I believe this is the NFA letter revisitation issue. What is the status. You very well could have sent something to me and I missed it. Thanks.

From: McNulty, Mark @ St Louis [mailto:Mark.McNulty@cbre.com]

**Sent:** Tuesday, May 26, 2015 5:17 PM

To: Schmidt, Aaron

Cc: Jack@StLouisParking.com; gary@stlouisparking.com

Subject: Wolf's Service Station: 17519 Chesterfield Airport Rd. Chesterfield MO.

#### **Aaron**

I wanted to follow up regarding the voice mail message that Jack Pohrer left for you regarding the message below. You can reach Jack Pohrer at his office 314-241-7777 (Ext. 23) or his cell number 314-575-2401 Thanks,

Mark

Mark E. McNulty
CBRE | Vice President
190 Carondelet Plaza, Suite 1400 | St. Louis, MO 63105
T +1 314 655 6022 | F +1 314 655 6100 | C +1 314 540 2861
mark.mcnulty@cbre.com | www.cbre.com

From: McNulty, Mark @ St Louis Sent: Tuesday, April 28, 2015 1:36 PM To: 'aaron.schmidt@dnr.mo.gov' Cc: Jack@StLouisParking.com

Subject: Wolf's Service Station: 17519 Chesterfield Airport Rd. Chesterfield MO.

### Good Afternoon Aaron,

Carol Eighmey suggested that Jack Pohrer and I contact you regarding the property located at 17519 Chesterfield Airport Rd. Please see the 1st attachment (NFA Letter) and the 2nd and 3rd attachments are letters from Environmental Operations. Chuck Monroe (Environmental Operations) has tried to get a response from MDNR but has not yet received one. Chuck thinks MDNR feels like they already gave us an NFA letter and therefore they are not motivated to review the file again because it would end up costing the tank fund more money. We don't want MDNR to reopen the file, we just want them to reissue a new NFA letter without a Vapor Barrier requirement and without a requirement that "construction workers need to be aware of the depth and concentrations of the remaining contamination at the site". The language that we are trying to remove from the NFA letter has impeded the potential sale of this property.

Please let me know if you need any additional background information from us. Thank you for your consideration.

Mark

Mark E. McNulty
CBRE | Vice President
190 Carondelet Plaza, Suite 1400 | St. Louis, MO 63105
T +1 314 655 6022 | F +1 314 655 6100 | C +1 314 540 2861
mark.mcnulty@cbre.com | www.cbre.com

## **TANKS SECTION JOB REQUEST FORM**

Draft date: 05/27/15

Proposed sign date: EXPEDITE	
Expedited Status: Yes	
Document Name: H:\Sections\Tanks\DRAFTS\drafts\S	T11820 052715 clarification
Document is to be filed in: R5903	
Is there an attachment/enclosure: No	
Copies of attachment/enclosure to be made:	
If yes to:	
Blind Copy to: Laura	
Always make a copy for the file and NFA File	Date Mailed:
Special Notes or Instructions:	
Retu	urn Original To:Lori
RetuKen Koon, Chief Tanks Section	xLaura Luther, Chief  RBCA Unit
Ken Koon, Chief	_xLaura Luther, Chief
Ken Koon, Chief Tanks Section	_xLaura Luther, Chief
Ken Koon, Chief Tanks Section  Chris Veit, Chief Closure, Release &	xLaura Luther, Chief RBCA Unit
Ken Koon, Chief Tanks Section  Chris Veit, Chief Closure, Release & Investigation Unit	xLaura Luther, Chief RBCA Unit
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Ken Koon, Chief Tanks Section  Chris Veit, Chief Closure, Release & Investigation Unit	x Laura Luther, Chief RBCA Unit  FEES CLOSURE

DATE DOCUMENT FINALIZED: \_\_\_\_\_

Mr. Jack Pohrer Save Gasoline Corporation One Mercantile Center Suite 3505 St. Louis, MO 63101

RE: Wolf's Service Station, 17519 Chesterfield Airport Road, Chesterfield, St. Louis County, MO ST0011820, R0005903

Dear Mr. Pohrer:

The Missouri Department of Natural Resources' Hazardous Waste Program, Tanks Section, has reviewed a November 4, 2013 Risk Assessment Addendum and a January 6, 2015 Status Update submitted by Environmental Operations, Inc (EOI).

Thank you for submitting the revised risk assessment addendum and status update. The documents request a review of two items noted in the Department's June 16, 2008 No Further Remedial Action Letter (NFA) for this site. The items of concern are item #3. "All construction workers must be informed regarding the depth and concentrations of the remaining contamination at the site", and the paragraph "In addition, a vapor barrier should be utilized during construction of any building in the areas of PMW-1, PMW-2, MW-3, PMW-5, PMW-6, PMW-7, MW-8, PMW-8, PMW-11, MW-16, MW-17, and MW-18." The Department has considered your request and has the following comments.

Regarding the construction worker pathway, the risk assessment addendum indicates that that soil samples collected within the exposure domain of zero to ten feet below ground surface do not exceed the risk based target levels (RBTLs) protective of the construction worker pathway. The Department agrees that the soil samples that were collected from this exposure domain do not exceed the RBTLs. However, the Department's concern is with the lack of samples collected in the area of the highest contamination and the lack of documentation of contaminated soil returned to the excavation.

The report also discusses that the depth to groundwater exceeds 10 feet. The Department agrees that the groundwater elevations submitted for review indicate the depth to groundwater is around 20 feet below ground surface. However, since only one groundwater monitoring event was collected (from only newly installed monitoring wells) after the excavation, it is unclear if the

groundwater elevation has remained at these depths. Therefore, this item was added to the NFA letter to ensure that construction workers are appropriately notified regarding the location of remaining contamination. The Department appreciates knowing that future construction on this property will not exceed 10 feet below ground surface.

Regarding the item the indicates that a vapor should be utilized during construction in certain areas, this item was placed in the NFA due to insufficient evaluation of the risk for the indoor inhalation pathway. While soil vapor sampling points were installed within the excavation and along the western-most property line, these points are not sufficient to evaluate the large area of free product and dissolved phase contamination found throughout the site. Without information regarding the material that was returned to the excavation and additional data regarding the extent of the free product and dissolved phase plumes and plume stability, the Department continues to see the need for a vapor barrier to be installed below future buildings at this site.

The Department appreciates your request for a revised NFA letter. However, at this time, the Department is not reissuing the NFA letter based on the items discussed above.

The file for this site is maintained by the Department's Hazardous Waste Program, 1730 East Elm Street, Jefferson City, Missouri 65101. To view this file or obtain copies, please contact the Custodian of Records at (573) 522-4293, e-mail: <a href="mailto:custodianofrecord@dnr.mo.gov">custodianofrecord@dnr.mo.gov</a>, or visit our Web site for additional information at: <a href="http://www.dnr.mo.gov/sunshinerequests.htm">http://www.dnr.mo.gov/sunshinerequests.htm</a>.

Please direct questions regarding the Petroleum Storage Tank Insurance Fund to the Fund Administrator at (573) 761-4060 or (800) 765-2765.

Thank you for your efforts to comply with Missouri's Underground Storage Tank Law and Regulations. If you have questions regarding this letter, you may contact me at the Hazardous Waste Program, P.O. Box 176, Jefferson City, Missouri 65102-0176, or at (573) 751-6822.

Sincerely,

HAZARDOUS WASTE PROGRAM

Laura Luther, Chief
Risk Based Corrective Action Unit

LL:

c: Petroleum Storage Tank Insurance Fund Chuck Munroe, Environmental Operations, Inc. 1530 South Second Street, St. Louis, MO 63104-4500

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## TANKS SECTION JOB REQUEST FORM

Draft date: 05/27/15

Expedited Status: Yes  Document Name: H:\Sections\Tanks\DRAFTS\drafts\ST11820 052715 clarification  Document is to be filed in: R5903  Is there an attachment/enclosure: No  Copies of attachment/enclosure to be made: If yes to: Blind Copy to: Laura  Always make a copy for the file and NFA File  Special Notes or Instructions:  Return Original To:Lori	Proposed sign date: EXPEDITE	
Document is to be filed in: R5903 Is there an attachment/enclosure: No Copies of attachment/enclosure to be made: If yes to: Blind Copy to: Laura Always make a copy for the file and NFA File Special Notes or Instructions:  Return Original To:Lori  Ken Koon, Chief Tanks Section xLaura Luther, Chief RBCA Unit  Chris Veit, Chief Closure, Release & Investigation Unit  FEES  CLOSURE ENF. FLAG	Expedited Status: Yes	
Is there an attachment/enclosure: No Copies of attachment/enclosure to be made:  If yes to: Blind Copy to: Laura Always make a copy for the file and NFA File Special Notes or Instructions:  Return Original To:	Document Name: H:\Sections\Tanks\DRAFTS	S\drafts\ST11820 052715 clarification
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If yes to:  Blind Copy to: Laura  Always make a copy for the file and NFA File  Special Notes or Instructions:  Return Original To:Lori	Is there an attachment/enclosure: No	
Blind Copy to: Laura  Always make a copy for the file and NFA File  Special Notes or Instructions:  Return Original To:	Copies of attachment/enclosure to be made:	*
Always make a copy for the file and NFA File  Special Notes or Instructions:  Return Original To:Lori	If yes to:	
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Return Original To:Lori  Ken Koon, Chief Tanks Section	Always make a copy for the file and NFA F	ile Date Mailed:
Return Original To:Lori  Ken Koon, Chief Tanks Section	Special Notes or Instructions:	
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DATE REC'D FROM REVIEW:		CLOCUPE
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DATE DOCUMENT FINALIZED:	DATE REC'D FROM REVIEW:	
	DATE DOCUMENT CINALIZED	

Mr. Jack Pohrer Save Gasoline Corporation One Mercantile Center Suite 3505 St. Louis, MO 63101

RE: Wolf's Service Station, 17519 Chesterfield Airport Road, Chesterfield, St. Louis County, MO ST0011820, R0005903

Dear Mr. Pohrer:

The Missouri Department of Natural Resources' Hazardous Waste Program, Tanks Section, has reviewed a November 4, 2013 Risk Assessment Addendum and a January 6, 2015 Status Update submitted by Environmental Operations, Inc. (EOI).

Thank you for submitting the revised risk assessment addendum and status update. The documents request a review of two items noted in the Department's June 16, 2008 No Further Remedial Action Letter (NFA) for this site. The items of concern are item #3. "All construction workers must be informed regarding the depth and concentrations of the remaining contamination at the site", and the paragraph "In addition, a vapor barrier should be utilized during construction of any building in the areas of PMW-1, PMW-2, MW-3, PMW-5, PMW-6, PMW-7, MW-8, PMW-8, PMW-11, MW-16, MW-17, and MW-18." The Department has considered your request and has the following comments.

Regarding the construction worker pathway, the risk assessment addendum indicates that that soil samples collected within the exposure domain of zero to ten feet below ground surface do not exceed the risk based target levels (RBTLs) protective of the construction worker pathway. The Department agrees that the soil samples that were collected from this exposure domain do not exceed the RBTLs. However, the Department's concern is with the lack of samples collected in the area of the highest contamination and the lack of documentation of contaminated soil returned to the excavation. The Department appreciates knowing that future construction on this property will not exceed 10 feet below ground surface. Therefore, we do not anticipate an unacceptable risk to construction workers working from zero to ten feet below ground surface.

Regarding the paragraph suggesting that a vapor should be utilized during construction in certain areas, this item was placed in the NFA due to insufficient evaluation of the risk for the indoor

inhalation pathway. While soil vapor sampling points were installed within the excavation and along the eastern-most property line, these points are not sufficient to evaluate the large area of free product and dissolved phase contamination found throughout the site. Without information regarding the material that was returned to the excavation and additional data regarding the extent of the free product and dissolved phase plumes and plume stability, the Department continues to see the need for a vapor barrier to be installed below future buildings in the referenced areas.

The Department appreciates your request for a revised NFA letter. However, at this time, the Department is not reissuing the NFA letter based on the items discussed above.

The file for this site is maintained by the Department's Hazardous Waste Program, 1730 East Elm Street, Jefferson City, Missouri 65101. To view this file or obtain copies, please contact the Custodian of Records at (573) 522-4293, e-mail: <a href="mailto:custodianofrecord@dnr.mo.gov">custodianofrecord@dnr.mo.gov</a>, or visit our Web site for additional information at: <a href="http://www.dnr.mo.gov/sunshinerequests.htm">http://www.dnr.mo.gov/sunshinerequests.htm</a>.

Please direct questions regarding the Petroleum Storage Tank Insurance Fund to the Fund Administrator at (573) 761-4060 or (800) 765-2765.

Thank you for your efforts to comply with Missouri's Underground Storage Tank Law and Regulations. If you have questions regarding this letter, you may contact me at the Hazardous Waste Program, P.O. Box 176, Jefferson City, Missouri 65102-0176, or at (573) 751-6822.

Sincerely,

HAZARDOUS WASTE PROGRAM

Laura Luther, Chief Risk Based Corrective Action Unit

LL:

c: Petroleum Storage Tank Insurance Fund Chuck Munroe, Environmental Operations, Inc. 1530 South Second Street, St. Louis, MO 63104-4500 STATE OF MISSOURN Matt Blunt, Governor • Doyle Childers, Director

PEPARTMENT OF NATURAL RESOURCES

www.dnr.mo.gov

JUN 1 6 2008

Mr. Jack Pohrer Save Gasoline Corporation One Mercantile Center Suite 3505 St. Louis, MO 63101

## No Further Remedial Action Letter - Non-Residential

RE: Wolf's Service Station, 17519 Chesterfield Airport Road, Chesterfield, St. Louis County, MO - ST0011820, R0005903

2. 2023 2021ty, 1410 - 510011020, R000

Dear: Mr. Pohrer

Congratulations on the completion of this remediation project! We thank you for your efforts to responsibly address this petroleum release.

The Missouri Department of Natural Resources' Hazardous Waste Program (HWP), Tanks Section, has reviewed the Missouri Risk-Based Corrective Action (MRBCA) reports and supplements to the Tier 1 risk assessment report dated September 6, 2006, by Bingham Resources Inc. for the above referenced facility. The reports evaluate the risks to human health and the environment from one or more petroleum release(s) and summarize corrective actions taken to address those risks.

Based upon a review of the site information and these reports, the department has determined that no further action is required related to the chemicals of concern identified in the environmental site assessment reports. This determination is contingent upon the following conditions:

- 1. Current and continued non-residential use of the source property and the neighboring property to the east.
- 2. No domestic consumption of the groundwater at the site or on neighboring properties.
- 3. All construction workers must be informed regarding the depth and concentrations of the remaining contamination at the site.

Mr. Jack Pohrer Page Two

In addition, a vapor barrier should be utilized during construction of any building in the areas of PMW-1, PMW-2, MW-3, PMW-5, PMW-6, PMW-7, MW-8, PMW-8, PMW-11, MW-16, MW-17, and MW-18.

Please be aware that 10 CSR 20-10.068(3)(B) provides: "if subsequent information becomes available to indicate that contamination may be present at the site at levels which may threaten human health or the environment, the department may require additional investigation or site characterization and/or corrective action."

The permanent file for this site is maintained by the department's Hazardous Waste Program, 1730 East Elm Street, Jefferson City, Missouri 65101. To view this file or obtain copies, please contact our Records Center at (573) 751-3043.

All monitoring wells associated with the site should be closed in accordance with well construction and abandonment regulations (10 CSR 23-4.080). If you have any questions regarding well abandonment, please contact Ms. Beth Marsala of the department's Wellhead Protection Section at (573) 368-2100.

Please direct questions regarding the Petroleum Storage Tank Insurance Fund to the Fund Administrator at (573) 761-4060 or (800) 765-2765.

If you have any questions, please contact the project manager for this site, Ms. Laura Luther, at (573) 751-6822 or P.O. Box 176, Jefferson City, Missouri 65102-0176. Again, we appreciate your efforts to address contamination at this site and for helping to protect our valuable natural resources.

Sincerely,

HAZARDOUS WASTE PROGRAM

Ken Koon, Chief Tanks Section

KK:llk

c: Ms. Beth Marsala, Wellhead Protection Section Petroleum Storage Tank Insurance Fund Mr. Joe Scott Sr., Crown Diversified Industries

### **Drouare, Douglas**

From:

Koon, Ken <ken.koon@dnr.mo.gov>

Sent: To:

Monday, October 17, 2016 9:10 AM

Drouare, Douglas

Subject:

FW: Legal Defense Costs cannot be counted against a clean-up cap under federal or state

FYI

Ken Koon Tanks Section Chief Hazardous Waste Program 573-526-0971 Ken.koon@dnr.mo.gov

Promoting, Protecting and Enjoying our Natural Resources. Learn more at dnr.mo.gov.

From: Koon, Ken

**Sent:** Friday, October 14, 2016 2:25 PM

To: Miller, Marty; Duggan, Tim; Luther, Laura; Garrett, Valerie; Sturgess, Steve; Tippett Mosby, Leanne; Schmidt, Aaron;

Allen, Brian; Holzschuh, Roarke

Cc: Willoh, Don

Subject: RE: Legal Defense Costs cannot be counted against a clean-up cap under federal or state law

I think EPA will make an issue of it in the Program Review, but I am not sure. I think they will make an issue of it at sites where PSTIF claims they are out of money and can't pay and EPA sees there is a third party claim. They appear to want to let PSTIF know that more money may be available in these cases. Such as Zill's and Main Street Shell and others where PSTIF has paid for legal counsel. Right now they only know of the current ones for sure, and maybe some of those that have closed.

#### Thanks

Ken Koon Tanks Section Chief Hazardous Waste Program 573-526-0971 Ken.koon@dnr.mo.gov

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From: Miller, Marty

Sent: Friday, October 14, 2016 10:30 AM

To: Koon, Ken; Duggan, Tim; Luther, Laura; Garrett, Valerie; Sturgess, Steve; Tippett Mosby, Leanne; Schmidt, Aaron;

Allen, Brian; Holzschuh, Roarke

Cc: Willoh, Don

Subject: RE: Legal Defense Costs cannot be counted against a clean-up cap under federal or state law

Thanks Ken. For what it's worth, my understanding is there are actually very few cases that have ever reached the limits of PSTIF coverage, where the issue below might have mattered in terms of PSTIF denying coverage based on having accounted for legal defense costs as part of the total (note this assumes PSTIF is currently counting legal defense costs toward the totals for each claim, which I suspect but I'm not 100% sure about). Do we know if EPA analyzed this issue in its review of PSTIF, and plans to make findings about it soon? Sounds fairly clear cut, but of course Carol didn't volunteer much info about this when I asked about it during a Board meeting, aside from saying the above universe is quite small.

Marty Miller
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From: Koon, Ken

Sent: Friday, October 14, 2016 10:14 AM

To: Duggan, Tim; Luther, Laura; Garrett, Valerie; Sturgess, Steve; Tippett Mosby, Leanne; Schmidt, Aaron; Allen, Brian;

Holzschuh, Roarke

Cc: Willoh, Don; Miller, Marty

Subject: FW: Legal Defense Costs cannot be counted against a clean-up cap under federal or state law

Below is the e-mail from EPA Region 7 Lawyer Ray Bosch and the letter EPA sent that reminds PSTIF that the amount of financial assurance (financial responsibility) under federal and state law, does not include legal defense costs.

From: Bosch, Raymond

Sent: Tuesday, May 03, 2016 9:59 AM

To: Elsbury, Laura < <a href="mailto:laura.elsbury@ago.mo.gov">laura.elsbury@ago.mo.gov</a> Co: Weekley, Erin < <a href="mailto:weekley.erin@epa.gov">weekley.erin@epa.gov</a>

Subject: Legal Defense Costs cannot be counted against a clean-up cap under federal or state law

### Laura -

As we discussed over the telephone this morning, the state of Missouri's Underground Storage Tank program is authorized by federal statute and federal regulations, which are found at Subtitle I of RCRA, 42 U.S.C. § 6991, et seq. and 40 C.F.R. Part 280. That means that the state statute and regulations can operate in place of the federal regulations, particularly where the EPA is not otherwise involved. One of the cardinal requirements of EPA's authorization of a

state program is that its corresponding statutes and regulations must *be no less stringent* than the federal statute and regulations.

That's why we felt there was something not quite right about Zill's argument that legal defense expenses are counted against the clean-up cap covered by PSTIF's financial assurance. That certainly is contrary to federal regulations and, thus, must be contrary to Missouri's regulations as Missouri is an authorized state program. I believe we are correct in our skepticism.

The federal regulations covering financial responsibility for UST clean-ups is found at 40 C.F.R. § 280 Subpart H – Financial Responsibility (FR). This includes approved FR mechanisms and required amounts to be carried by tank owners. By the way, the EPA utilized this section to approve PSTIF as an approved FR mechanism within the state of Missouri.

40 C.F.R. § 280.93(g) states "The amounts of assurance required under this section excludes legal defense costs." The term *Legal Defense Costs* is defined at 40 C.F.R. § 280.92 as follows: "Legal defense cost is any expense that an owner or operator or provider of financial assurance incurs in defending against claims or actions brought, (1) By EPA or a state to require corrective action or to recover the costs of corrective action. (2) By or on behalf of a third party for bodily injury or property damage caused by an accidental release; or (3) By any person to enforce the terms of a financial assurance mechanism."

As we read that, we realized that the state of Missouri MUST have a similar regulation or statute because the regulations of an authorized can be *no less stringent* than the federal regulations. So we checked, and we were correct.

Although the state statute appears to be silent about this subject, the state regulations promulgated pursuant to the statute are clear. 10 CSR 26-3.093 Amount and Scope of Required Financial Responsibility, specifically 10 CSR 26-3.093(7), states "The amount of assurance required under this rule exclude legal defense costs." In terms of the definition of "legal defense costs", it is exactly the same as the federal definition. See the definition section of the rule, found at 10 CSR 26-3.092(1) which states "The definitions set forth in 40 C.F.R. § 280.92, July 1, 1998, are incorporated by reference . . . "

While this explanation may appear long winded, I wanted to be clear that the federal rules and definitions concerning legal defense costs are exactly the same, and they cannot be counted against the amount of Financial Assurance (i.e., the "cap") that PSTIF must spend on a contaminated UST site.

As you move forward, if you have any questions or see any are where we may be of assistance in this matter, please do not hesitate to contact us. Thank you –

Ray

Raymond C. Bosch

Attorney Advisor
United States Environmental Protection Agency
Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219
(913) 551-7501

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## Drouare, Douglas

From:

PSTIF <pstif@sprintmail.com>

Sent:

Wednesday, October 19, 2016 10:05 AM

To: Subject: Drouare, Douglas Another example

Attachments:

20161019093541136.pdf

See attached. Another example where the consultant was the reason for delay, but DNR's Tanks Section staff thought otherwise.

Do you have a target date by which you intend to have a draft report written? And is it reasonable for me to assume both DNR and PSTIF will have opportunity to review and comment on it?

Carol R. Eighmey Executive Director MO Petroleum Storage Tank Insurance Fund PO Box 836 Jefferson City, MO 65102 573-522-2352

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From: Michael Flach [mailto:mflach@ipes.net]

Sent: Friday, August 19, 2016 9:18 AM

To: Kuttenkuler, Jeff < jeff.kuttenkuler@dnr.mo.gov>

Cc: Dan Stout <dls@willconsult.com>; Dan Henry <dlh@willconsult.com>

Subject: Troy Mills Country Store - ST3005590

Jeff,

I believe some clarification is needed regarding delays at the Troy Mills Site. There was a slight delay in progress back in early 2016 while IPES & PSTIF collaboratively worked together to try and determine if it was necessary to perform some in-situ treatment or corrective action to decrease groundwater concentrations rather than continue to perform groundwater monitoring without ever being able to demonstrate plume stability. In April of this year IPES mobilized to the site to complete an investigation that consisted of several borings in the area of the dispenser islands. I am currently working on a report of this investigation and a work plan to perform corrective actions and will have the report to you no later than August 31, 2016 for your review & approval.

PSITF is not delaying the progress at the site. IPES is working with PSTIF to implement the most reasonable path forward to be able to demonstrate plume stability and ultimately achieve NFA status for this site. I apologize for the delays on our part.

Michael Flach
Environmental Project Manager
Industrial & Petroleum
Environmental Services, Inc.
PO Box 138- Hallsville, MO 65255
(573) 696-3333 Fax (573) 696- 0110
Cell (573) 291-9363 www.ipes.net

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## **Drouare, Douglas**

From:

PSTIF Office <pstif@sprintmail.com>

Sent:

Tuesday, September 06, 2016 4:25 PM

To:

Sturgess, Steve

Cc:

David Walters; Schmidt, Aaron

Subject:

**RE:** Communications

My commendation obviously fell flat, due to my "unartful word craft." Thank you for responding and clarifying.

With regard to #1 – During the meeting with EPA, Doug Drouare specifically inquired about Item III.I in the handout; you responded DNR's *standards* are the same and will be administered without regard to who's paying for the cleanup. We were glad to hear you say that, since other DNR managers have said DNR can and should "set the bar higher" when PSTIF is paying than when other parties are paying.

With regard to #2 – I was not using the word "dispositive" in a legal sense. Perhaps "instructive" would have been a better word choice. The point is: Others have said things like, "I don't care what decision was made on that other file..." or "Every file has to 'stand on its own' and you can't use information from that other file..." You have acknowledged decision-makers can and should make use of all pertinent info. We appreciate your position.

As an aside, this exercise reaffirms my distaste for "dialogue via email." Human-to-human conversation is much better!

Regards,

Carol

**From:** Sturgess, Steve [mailto:steve.sturgess@dnr.mo.gov]

Sent: Friday, September 02, 2016 2:26 PM

To: PSTIF Office

**Cc:** Schmidt, Aaron; David Walters **Subject:** RE: Communications

1. I do not remember making this specific statement at the meeting with EPA, and neither does Ken, but that's beside the point. I'll address what you have stated. As an overarching statement, we seek as much consistency as possible, regardless of who is paying. All new sites should go through a process of complete site investigation, risk evaluation and corrective action. Tanks management work hard to have staff follow the same procedures, and hold "white board" meetings with staff as one means of accomplishing this. However, 100% consistency is not always achievable, given caseloads, differences in approaches by different project managers over time, etc. There will always be site-specific differences (geological settings, stream classifications, hydrologic characteristics, soil types, urbanization, etc.) that, when factored into the weight of evidence approach, and in the context of professional judgment, will inevitably lead to differences in opinions. Finally, regulations also allow MDNR to vary from the process ("as approved by DNR") at any time. In other words, we can accept other state or EPA documents such as the Virginia trench model or EPA's monitored natural attenuation document. Consultants have used these alternative approaches, with DNR approval, to close sites.

2. This is <u>not</u> what I said. I did not say that the conclusion for one site in a town should be dispositive\* of another site in the same town. What I did say is that the data and conclusions for a site(s) in the same town, especially if the site(s) is in close proximity to the subject site, should be *taken into consideration* in evaluating a new site. This is not the same as saying a previous case(s) should be dispositive. A previous tank site(s), in proximity to the new site, should be looked at in the overall "weight of evidence" approach for evaluating the new site. Geology, hydrology, soils, groundwater usage, proximity to wells, proximity to structures that can be subject to vapor intrusion, etc., can vary significantly over short distances and hence between sites.

\*Dispositive: There are different definitions of dispositive. It appears to me, in the context of your statement below, that you mean "information or evidence that unqualifiedly brings a conclusion to a legal controversy."

Steve Sturgess, Director
Hazardous Waste Program
Missouri Department of Natural Resources
P.O. Box 176, Jefferson City, MO 65102
(573) 751-1187

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From: PSTIF [mailto:pstif@sprintmail.com]
Sent: Wednesday, August 31, 2016 1:23 PM

To: Sturgess, Steve

Cc: Schmidt, Aaron; David Walters

Subject: Communications

Healthy dialogue this morning – a good example of what we've desired and requested.

Wanted to note two specific things you've said recently that are different from what we've heard in the past:

- 1. You stated at the meeting with EPA that the Department's cleanup requirements are the same and should be administered consistently, regardless of who is paying for the cleanup. This is different than what others have previously told us; we will assume your view is the Department's official position from this point forward.
- 2. You stated this morning if the Department has concurred "the future drinking water pathway is incomplete" for one tank site in a town, and a consultant is presenting the same conclusion for a similar tank site in the same town and informs your staff of such, that should be dispositive. In other words, it is not necessary to "reinvent the wheel." This position also differs from what other DNR folks have said. We ask you to include this topic in your upcoming discussion with Tanks Section personnel, as Dave and I have the impression this is not a view currently shared by all of them.

Please let me know if I've misunderstood or misrepresented what you said in either case. Assuming we understood you correctly, we very much appreciate your clarifications and positions on both of these important issues.

Regards,

Carol



## STATE OF MISSOURI OF NATURAL RESOURCES

www.dnr.mo.gov

SEP 0 6 201R

Mr. Don McNutt, Chair Petroleum Storage Tank Insurance Fund P.O. Box 836 Jefferson City, MO 65102

Agenda Item for September 29, 2016, PSTIF Board Meeting RE

Dear Mr. McNutt:

On behalf of the Missouri Department of Natural Resources (MDNR), I am requesting to have an item placed on the agenda for the September 29, 2016, Petroleum Storage Tank Insurance Fund (PSTIF) Board meeting. The requested agenda item is for the PSTIF Board to consider funding the procurement of a management consulting firm to perform an independent evaluation of the relationship and work flow between the MDNR's Tanks Section staff and the PSTIF, including PSTIF's contractor, Williams & Company. In addition, the study would include discussions with tank owners and their remediation contractors. The goal of the study would be to identify any problem areas with the current process, along with making recommendations for improvement. It is further recommended that procurement and management of the contract be handled by the State of Missouri's Office of Administration. I will be making the presentation at the meeting on this issue, upon acceptance of this request.

For several years there have been numerous allegations made regarding the slow pace and inefficiency of the tanks cleanup process in Missouri. This study is considered important for identifying problem areas, if indeed they exist, with a goal of creating a more efficient cleanup process for the benefit of Missouri's citizens.

If you have any questions regarding this request or require further information to prepare this as an agenda item, please contact me by phone at 751-2747, in writing to the Hazardous Waste Program, P.O. Box 176, Jefferson City, MO 65102-0176, or by email to steve.sturgess@dnr.mo.gov.

Your consideration of this request is appreciated.

Sincerely,

HAZARDOUS WASTE PROGRAM

Steve Sturgess Director



Mr. Don McNutt Page Two

c: PSTIF Board of Trustees

Ms. Carol Eighmey, Petroleum Storage Tank Insurance Fund

Ms. Leanne Tippett Mosby, Director, Division of Environmental Quality

Ms. Sara Parker Pauley, Director, Department of Natural Resources

Mr. Aaron Schmidt, Deputy Director, Division of Environmental Quality



# UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 7

11201 Renner Boulevard Lenexa, Kansas 66219

NOV 1 4 2016

Ms. Leanne Tippet Mosby, Director Division of Environmental Quality Missouri Department of Natural Resources P.O. Box 176 Jefferson City, Missouri 65102

Dear Ms. Mosby:

I am writing this letter in regard to the "Missouri Department of Natural Resources, Underground Storage Tank Provisions of the Energy Policy Act of 2005 Financial Responsibility for Installers/Manufacturers OR Secondary Containment Compliance Plan May 2013." I understand that the comment period for the Department's revised underground storage tank regulations expired October 27, 2016. MDNR has thus far made good progress towards meeting the deadline established in the compliance plan to have these regulations in effect by July 1, 2017. However, given the adverse comments made by the representative of the Missouri Petroleum Storage Tank Insurance Fund on the proposed regulations, I would like to review the consequences should that progress cease.

Firstly, should progress on the revised regulations be delayed such that it becomes obvious that MDNR will fail to meet the July 1, 2017 date, it will be our determination that the Department has failed to make reasonable progress towards compliance with the Energy Policy Act. This means that the U.S. Environmental Protection Agency would not be able to award federal grant funds to the department under that law. You may recall that the EPA suspended grant funding in 2013 until we had reached agreement on the aforementioned compliance plan.

Secondly, failure to promulgate state regulations that comply with the Energy Policy Act and the 2015 federal regulatory changes would make Missouri ineligible for re-authorization of State Program Approval. Without SPA, owners and operators in Missouri would have to comply with both Missouri's current UST rules as well as the 2015 federal UST rules according to the timelines specified in the federal regulations (<a href="https://www.gpo.gov/fdsys/pkg/FR-2015-07-15/pdf/2015-15914.pdf">https://www.gpo.gov/fdsys/pkg/FR-2015-07-15/pdf/2015-15914.pdf</a> and <a href="https://www.epa.gov/sites/production/files/2015-09/documents/implementbrochure091515.pdf">https://www.epa.gov/sites/production/files/2015-09/documents/implementbrochure091515.pdf</a>) and would be subject to both state and federal inspections and enforcement of the two regulatory schemes.

This would take place in one of two ways. Missouri could voluntarily give up its SPA according to the procedures and timelines detailed in 40 C.F.R. § 281.61(a). Alternatively, Missouri may choose to not reapply for SPA by the October 2018 deadline. In either case, the EPA would expeditiously take action to withdraw program approval in accordance with procedures detailed in 40 C.F.R. § 281.61(b).

Thank you for your attention to this matter. We look forward to hearing that Missouri will continue progress toward adopting the new regulations. If you have any questions, please contact me at (913) 551-7845, or Scott Hayes, of my staff, at (913) 551-7670.

John J. Smith Deputy Director

Sincerely.

Air & Waste Management Division

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